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Performance Audit

DIVISION of LIQUOR CONTROL
DEPARTMENT OF PUBLIC SAFETY
STATE OF MISSOURI

SEPTEMBER 23, 1987

A report to the Missouri General Assembly by the Oversight Division of the Joint Committee on Legislative Research

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September 23, 1987

The Honorable John Ashcroft, Governor
State of Missouri

The Honorable John E. Scott, President Pro Tem
Missouri Senate

The Honorable Bob F. Griffin, Speaker
Missouri House of Representatives

Members of the Missouri General Assembly

In accordance with the provisions of RSMo 23.190, the Joint Committee on Legislative Research is pleased to present this performance audit of Missouri's Division of Liquor Control of the Department of Public Safety. The audit was conducted by the Oversight Division pursuant to a resolution adopted by the Committee on January 29, 1987.

The report contains findings and recommendations for improving the operations of the Division of Liquor Control. The Division's responses to the findings and recommendations have been included in the report.

The Joint Committee on Legislative Research wishes to thank the Legislature for its support in 1987 and urges all members to avail themselves of the services of the Committee whenever the need arises.

Respectfully,

Representative L.W. Maddox, Chairman
Committee on Legislative Research

Senator Edwin L. Dirck, Vice-Chairman
Committee on Legislative Research

PREFACE

The Oversight Division of the Joint Committee on Legislative Research was directed by Committee resolution to conduct a management and program audit of the Division of Liquor Control of the Missouri Department of Public Safety.

The Oversight Division of the Joint Committee on Legislative Research was created as a result of HB 1087 passed by the 82nd General Assembly in 1984. The Division is responsible for conducting management and program audits of state government agencies.

Management and program audits provide feedback to the legislature and the state agencies on the effectiveness of specific programs. Staff from the Division conduct the audits to determine whether the state agencies are managing and utilizing their resources in an efficient manner and according to legislative intent. The audits evaluate the performance of state agencies to determine whether the objectives of the programs are being achieved and the intended benefits are being realized. The audits may also address whether a program duplicates or conflicts with any other state program. In addition, the Division is assigned the responsibilities of providing fiscal research and analysis on legislation pending before the General Assembly.

On behalf of the Committee and the staff of the Oversight Division, I wish to acknowledge the Department of Public Safety staff and in particular the staff of the Division of Liquor Control for their cooperation and assistance in providing the information used in this report.

Natalie Tackett

Natalie Tackett
Director, Oversight Division
September 23, 1987

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INTRODUCTION

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I. Program Description:

The Department of Liquor Control was established under the Liquor Control Act passed by the Fifty-seventh General Assembly in special session, signed into law by the Governor on January 13, 1934, and became effective on that date. The Omnibus State Reorganization Act of 1974, created the Department of Public Safety and made the Division of Liquor Control a division of that department. The Intoxicating Liquor Law and Nonintoxicating Beer Law are contained in Chapters 311 and 312, RSMo 1978. The office of the supervisor is located on the eighth floor of the Harry S. Truman State Office Building, 301 West High Street, Jefferson City, Missouri.

The Supervisor of Liquor Control is nominated by the Director of the Department of Public Safety and appointed by the Governor with the advice and consent of the Senate. The supervisor is vested with the exclusive power to issue and revoke or suspend licenses for the sale of intoxicating liquor and nonintoxicating beer; and with the power to promulgate rules and regulations governing the conduct and method of operation of all licensees set out in Section 311.660 RSMo 1978.

The supervisor, with the approval of the Director of the Department of Public Safety, is authorized to appoint and employ all agents, assistants, deputies, and inspectors as are necessary for the proper enforcement and administration of the Liquor Control

Law and Nonintoxicating Beer Law. These appointments are divided equally between the two major political parties in Missouri.

All licenses issued by the Division of Liquor Control expire on the 30th day of June, next following the date that such licenses were issued. All applications for renewal of licenses are required by law to be filed on or before the first day of May of each calendar year. In FY 1986, of the 18,777 liquor licenses (in-state and out-of-state) that were issued, twenty seven (27) applications were denied, 651 licenses were suspended and three (3) licenses were revoked for various violations of chapters 311 and 312 and the Division's regulations.

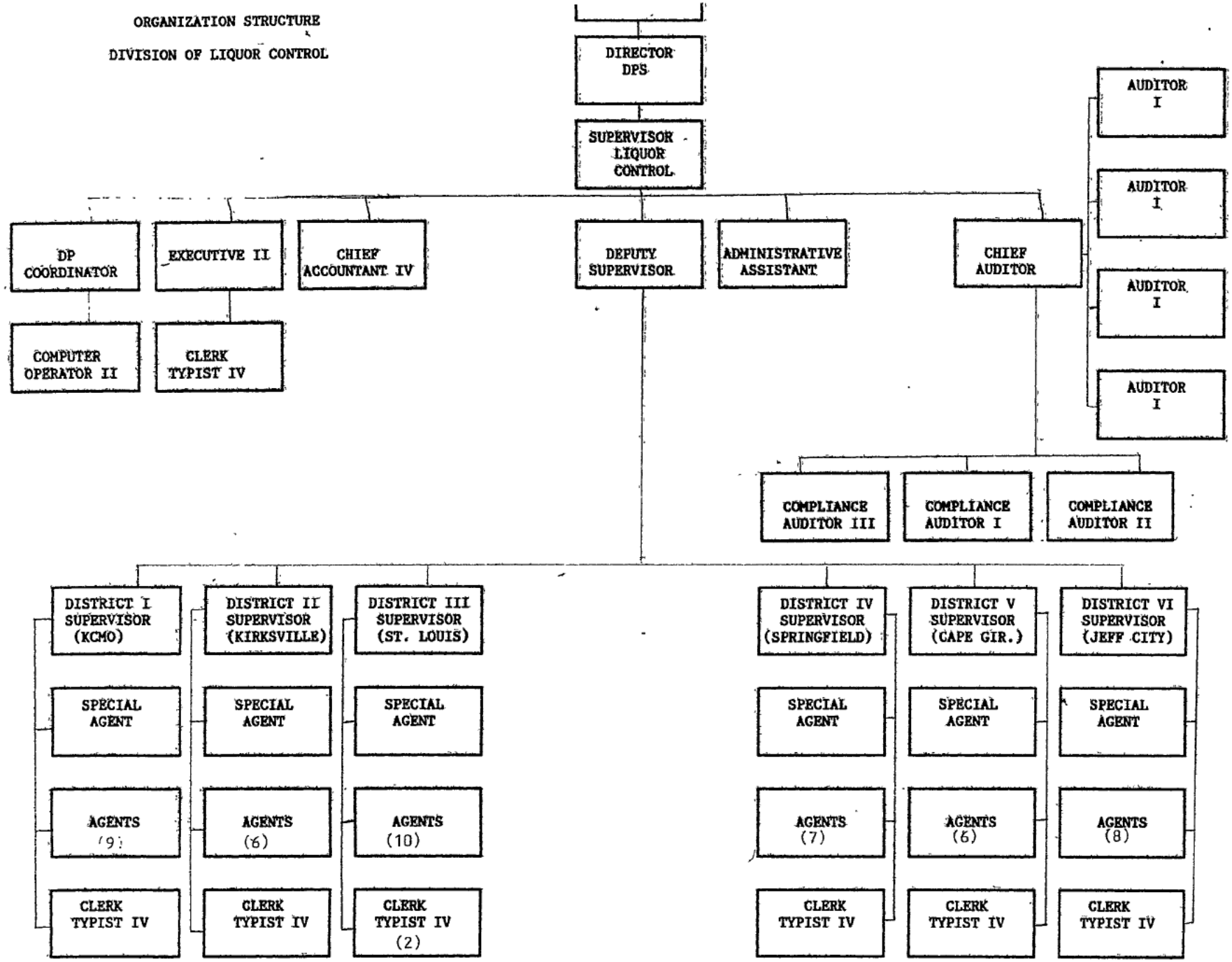
The Division of Liquor Control collects more than $2,000,000 annually from the collection of license fees for deposit into general revenue. $25,000,000 in liquor taxes/fees was collected in FY 1987.

The Division has six enforcement districts in the state:

District #	Location	Counties	# Agents	# Licenses
I	Kansas City	Andrew, Achison, Bates, Buchanan, Cass, Clay, Clinton, DeKalb, Gentry, Henry, Holt, Jackson, Johnson, Lafayette, Nodaway, Platte, Ray & Worth	9	3,093
II	Kirksville	Adair, Audrain, Caldwell, Carroll, Chariton, Clark, Daviess, Grundy, Harrison, Knox, Lewis, Linn, Livingston, Macon, Marion, Mercer, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, & Sullivan	6	852
III	St. Louis	City of St. Louis, St. Louis County, Lincoln, Jefferson & St. Charles	10	4,672
IV	Springfield	Barry, Barton, Cedar, Christian, Dade, Dallas, Douglas, Greene, Howell, Jasper, Lawrence, McDonald, Newton, Oregon, Ozark, Polk, St. Clair, Shannon, Stone, Taney, Texas, Vernon, Webster and Wright	7	1,662
V	Cape Girardeau	Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Stoddard, Washington and Wayne	6	1,317
VI	Jefferson City	Benton, Boone, Callaway, Camden, Cole, Cooper, Crawford, Dent, Franklin, Gasconade, Hickory, Howard, Laclede, Maries, Miller, Montgomery, Moniteau, Morgan, Osage, Pettis, Phelps, Pulaski, Saline and Warren	8	2,325

ORGANIZATION STRUCTURE

DIVISION OF LIQUOR CONTROL



II. Scope of the Audit

On January 29, 1987, the Committee on Legislative Research directed the Oversight Division of the Joint Committee to conduct a performance audit of the Division of Liquor Control, Department of Public Safety.

Directive

The committee resolution addresses three basic questions:

1) Is the Division achieving the results established by the legislature?

2) Has the Division considered alternatives that might yield desired results at a lower cost?

3) Is the Division managing and utilizing its resources economically and efficiently and, if not, why not?

Methodology

In order to answer the questions posed in the resolution, the following audit techniques and methods were used:

- personal interviews
- examination of various DPS documents related to the liquor control program
- examination of liquor control personnel files
- examination of statistical data provided by the department

AUDIT SECTION, DIVISION OF LIQUOR CONTROL

FINDING 1. Division of Liquor Control's field audits do not generate sufficient revenue to offset their costs. Zero ($0) additional dollars have been collected for the state by field auditors.

In the 21 month period since the division's hiring of degreed accountants in 10/85*, only 21% of all relevant wholesalers (30 of 139) have been audited. From these 30 wholesaler audits no additional revenue (over and above what is voluntarily remitted) has been found to be owed the state.

An analysis of the output/input reveals that it cost the division $81,360 (+ travel) in CY 1986 for four FTE auditors' salaries which resulted in the collection of $0 and issuance of nine written warnings (see Table 2). From January 1, 1987, through July 1987, the division has paid $60,340 (+ travel) in five FTE auditor salaries resulting in $0 collected and issuance of six violations-the dispositions of which are either yet to be resolved or are unknown to the division (see Table 1).

Some field audits of wholesalers have resulted in violation reports being filed with the division. However, none of these have ever resulted in any action more serious than

* The Chief Auditor was hired in October, 1985; one auditor was hired in November, 1985; two auditors were hired January, 1986, and one auditor was hired in January, 1987.

written warnings (see Tables 1 and 2). The number of violations, by type, resulting from field audits of Missouri liquor wholesalers is further demonstrated in Table 3.

The division's Chief Auditor/C.P.A. has stated that revenue collection is the primary goal of his field auditors. The Supervisor's ideal goal is to audit every relevant wholesaler at least once every two years.

In calendar year 1986, 14% (19 out of 139) of the relevant in-state wholesalers were field audited. In 1987, 8% (11) were audited through July. Table 4 shows that in the period of January through July 1987, four field auditors spent a total of 1,760 hours performing wholesale audits. Assuming a potential of 1,840 work hours a year per auditor, 41% is the average amount of time spent by four auditors in this period performing wholesale audits.

Of those audited, no additional tax liability has been found which was not already voluntarily remitted in reports routinely filed with the division (see Table 6).

A total of 18 retail Liquor by the Drink Sunday Sales audits were also completed by field auditors in this 19 month period to determine whether applicants were eligible for a Sunday sales type of license. (This type of audit has no potential for tax collections.) These kinds of audits are specifically discussed in finding #4.

<u>Maximized and efficient use of employees requires management analysis of all present tasks performed.</u> Activities which are not cost efficient should be considered for reduction, sampling or elimination unless such employee activity is expressly required by law.

The two basic elements in the management process are planning and controlling. Effective control results from effective planning with goals, objectives, checkpoints and allowable deviations determined in advance in measurable terms. The most important method of control is communication to each employee specifying the expected level of performance, measured in terms of quantity, quality, time or cost.

In the Division of Liquor Control, the Chief Auditor has indicated that he cannot realistically set any goals for his audit staff until every wholesaler has been audited one time.

He has, however, stated that a long term goal is to help the licensee set up a better set of books.

Further, there is no field audit plan document. Liquor Control Management makes daily spontaneous decisions as reactions to questions and as crises arise. Licensee audits are selected from complaint/referrals rather than targeted as the result of a plan.

According to the American Management Association, not only is every "supervisor's job to deal expertly with the emergencies that inevitably come up, but also every supervisor's job to forestall crises before they develop - by planning, organizing and controlling the activities".

Liquor Control Division management has taken no steps to maximize the use of their existing personnel. The four field auditors are presently inefficiently utilized.

Two of the four college degreed auditors work 40 to 80 hours each month performing beer reconciliation reviews in the Jefferson City office. This function is less complex than

liquor/wine report work performed by the Compliance Auditor II who is a high school graduate. The Chief Auditor decided to use his field auditors this way because, he maintains, there is a shortage of desk audit personnel in Jefferson City. (Beer reconciliations have not been cost effective activities either. See discussion under finding #2.)

The jobs of field auditors are not organized efficiently. According to the Chief Auditor, the field auditors spend approximately 100 hours on each wholesale audit. After that they must personally type their own audit reports which takes approximately 20 hours more per audit. The distribution of these typed reports is to the Supervisor of Liquor Control, the Chief Auditor and the licensee.

It may not be necessary to type audit reports. Even though an audit report could be needed for a court proceeding, it would seem to be more cost efficient to type a handwritten report after a need arises rather than type all reports in anticipation of a future potential need.

Even after the audit report is submitted to the Chief Auditor in Jefferson City, there is a three to four month lapse before the auditor receives his draft back to rework and resubmit.

Table 4 reveals that Liquor Control Field Auditors' audit time has not been maximized by management. Full time employees are paid for 40 hours per week for 52 weeks a year. Assuming that an employee takes two weeks each of vacation, holiday and sick leave over the course of a year, it leaves 1,840 hours available to work yearly on an average of 153 hours to work per month. Therefore, existing resources could very likely be organized to accomplish the goal of auditing 1/2 the wholesalers (70) each year. (See recommendation #1.A. below.)

TABLE 4

APPROXIMATE NUMBER OF HOURS SPENT ON FIELD AUDITS
BEFORE REWORKS

	CY 86 (12 Mo.)	CY 87 (7 Mo. through July)
Auditor 1	1,020	300
Auditor 2	1,080	550
Auditor 3	660	360
Auditor 4	Not hired until 1/87	550
Chief Auditor	60	40
TOTAL	2,760 hours total for 3 FTE (exclude Chief Auditor) or 76 avg. hours @ month for 1 FTE or 920 avg. hours @ auditor @ year	1,760 hours total for 4 FTE (exclude Chief Auditor) or 63 avg. hours @ month @ auditor

Source: Developed from data provided by Chief Auditor, Division of Liquor Control.

There is no evidence that Liquor Control management has considered questions of cost efficiency. Had a plan been developed, such significant concerns as how much money or compliance the state receives back for each dollar spent would, hopefully, have been addressed by management. Neither has management apparently monitored its auditors' performance with an eye to improving cost efficiency.

<u>The Jefferson City office has not managed to establish control over its field auditor staff</u>. The division has notified its auditors that they must move to Jefferson City to work out of the central office no later than January 1988.

Some of the admitted field problems which this move is designed to correct are: 1) too much management by phone, 2) audit inconsistency, 3) personnel problems, 4) auditors performing clerical work in the district, and 5) low audit production.

The action of moving the entire audit staff's domicile to Jefferson City in order to solve the above stated problems should be a last resort. No evidence has been presented which demonstrates management has exhausted less traumatic remedies. Such a plan to move all field auditors to Jefferson City may not meet the need and may also not have a positive impact upon improving cost efficiencies. (See recommendation #1.A. for alternative.)

One of the personnel problems may be that the pay for an accountant degreed person is low and that there is no visible career ladder in the division. This problem may be solved by hiring graduates older than those just out of college or by re-evaluating the need for degreed accountants. It is possible that bright persons without accounting degrees could be trained to determine whether or not the proper excise tax has been remitted.

RECOMMENDATIONS

Greater cost efficiency of field audits could be attained by one of the following corrective actions:

1.A. The General Assembly may wish to give the division a maximum of two more trial years to attain the goal of auditing all in-state wholesalers at least once every two years with existing audit staff.

Methods which could be employed to maximize current resources are:

a. cease typing audit reports (the distribution of audit reports may not warrant FTE time spent on typing)
b. do not allow auditors to perform work for enforcement districts (use of auditors by district offices has been cited as a problem by the Chief Auditor)
c. cease retail audits
d. re-evaluate audit procedure and narrow scope to taxes due
e. cease use of 2 auditors performing beer reconciliations
f. have compliance auditors use sampling techniques on monthly liquor/wine and beer reconciliations
g. decrease time spent on re-work (3 to 4 months is too long)
h. use Chief Auditor to perform some audits if necessary to attain goal

With such changes, auditors could perform audit work closer to a potential number of hours per year of 1,840 (see Table 4). If wholesale audits took an average of 75 hours to perform, 1/2 of the relevant licensees (69) could be audited in 5,175 hours. Four FTE auditors working 1,840 hours per year would have 7,364 hours available for auditing and travelling.

1.B. The General Assembly may wish to consider amending the statute to allow the state's tax collection agency (the Department of Revenue) to collect the tax and the state's enforcement agency (Department of Public Safety) to enforce the law.

Such an arrangement would be very similar to the existing statutory method presently used to collect the

state's gasoline and diesel and cigarette excise taxes. That is, the Department of Revenue would license businesses, collect the tax and audit licensees; the Department of Public Safety would inspect and investigate licensed premises, chemically test the liquor quality, investigate consumer complaints, handle industry public relations/education and enforce the consumer protection aspects of the law.

The Liquor Control division could take action against licensees as a result of all violations other than tax reporting violations. (The Department of Revenue would take these actions for tax violations.)

1.C. The field audit staff could be reduced to one FTE. Such an auditor would be available to audit as a reaction to complaints and would generally keep the "threat" alive that a licensee could be audited. This recommendation takes into account the opinions held by the Supervisor and Chief Auditor of Liquor Control which are that the wholesalers are prudent, professional business people who would not withhold taxes because of the strong deterrent of possible permanent license revocation.

Table 1
Wholesale Audit Reviews
Calendar Year 87
(January through July 1987)

Number	City	County	District	Basic Hours to Complete	Citations	Disposition of Citation
87-7	St. Joseph	Buchanan	I	169	Ordinary commercial credit	Unknown
87-8	Kansas City	Jackson	I	Audit not completed		
87-17	Hannibal	Marion	II	66	Unlawful sale to person not duly licensed	Unknown
87-18	Mexico	Audrain	II	31	None	
87-19	Hannibal	Marion	II	26	None	
87-5	St. Louis	St. Louis	III	100	None	
87-6	St. Louis	St. Louis	III	46	None	
87-9	St. Louis	St. Louis City	III	Audit not completed		
87-3	Springfield	Greene	IV	102	None	
87-4	Desloge	Ste. Francois	V	242	Failure to keep accurate records License numbers not written on invoices Unlawful delivery Credit other than ordinary commercial credit	Pending: #5-87-72-C #5-87-73-C #5-87-74-C #5-87-75-C
87-1	Rolla	Phelps	VI	166	None	
				948	(excluding 2 audits not completed)	
				105	Average number hours per audit (948 / 9)	

Source: Developed from data supplied by the Division of Liquor Control, Chief Auditor

Table 2
Wholesale Audit Reviews
Calendar Year 1986
(January through December 1986)

Number	City	County	District	Basic Hours to Complete	Citations	Disposition of Citation
86-6	North Kansas City	Clay	I	110	Fail to file schedule of prices Credit other than ordinary commercial credit Sale at price other than price then in effect	#1-87-3 Written warning 9-25-86
86-13	Excelsior Springs	Clay	I	111	Accepting credit other than ordinary commercial credit Extending credit other than ordinary commercial credit	#1-87-34-C Written warning #1-87-33-C Written warning
86-14	North Kansas City	Clay	I	133	Credit other than ordinary commercial credit (2 counts)	#1-87-44-C Written warning
86-19	North Kansas City	Clay	I	189	Violation of price posting schedule Failure to file schedule of price Ordinary commercial credit Unlawful merchandise returns	#1-87-102-C #1-87-103-C #1-87-104-C #1-87-105-C Pending as of 7/27/87
86-20	St. Joseph	Buchanan	I	103	None	
86-27	Kansas City	Jackson	I	265	Going back into field to complete FY 1987	
86-1	St. Louis	St. Louis	III	Time not logged	Fail to file schedule of prices	#3-86-170-C Written warning 7/7/87
86-5	St. Louis	St. Louis	III	110	Violation of price posting schedule Failure to file schedule of prices	#3-86-222 Written warning 7/7/87

Table 2 (continued)
Wholesale Audit Reviews
Calendar Year 1986
(January through December 1986)

Number	City	County	District	Basic Hours to Complete	Citations	Disposition of Citation
86-16	Maryland Heights	St. Louis	III	50	None	
86-17	Maryland Heights	St. Louis	III	55	Extending other than ordinary commercial credit	Unknown
86-21	St. Louis	St. Louis	III	180	Unlawful merchandise return	#3-87-070-C
86-22	St. Louis	St. Louis	III	180	Unlawful merchandise return	#3-87-069-C
86-24	St. Louis	St. Louis	III	187	None	
86-25	St. Louis	St. Louis	III	187	None	
86-3	Springfield	Greene	IV	98	Violation of price posting schedule	#4-86-101-C Written warning
86-4	Springfield	Greene	IV	139	None	
86-11	Cuba	Crawford	VI	59	Credit other than ordinary commercial credit (2 counts)	#6-87-22-C Written warning 10/27/86
86-12	Columbia	Boone	VI	71	Unlawful merchandise return	#6-87-17-C Written warning 10/27/86
86-15	Washington	Franklin	VI	60	Selling to an unlicensed retailer Credit other than ordinary commercial credit	#6-87-65-C #6-87-66-C
				2287	Total hours + 1 audit not logged	
				127	Average number hours per audit (2287 / 18)	

Source: Developed from data supplied by the Division of Liquor Control, Chief Auditor

TABLE 3

NUMBER OF VIOLATIONS, BY TYPE, RESULTING FROM FIELD AUDITS OF MISSOURI LIQUOR WHOLESALERS

	1986 (12 Mos.)	1987 (7 Mos.)
Failure to file schedule of prices	3	
Credit other than ordinary commercial credit	8	2
Sale at price other than price then in effect (violation of schedule)	4	
Unlawful merchandise returns	4	
Selling to unlicensed retailer	1	3
Failure to keep accurate records		1
License numbers not written on invoice		1

Source: Developed from Division of Liquor Control Audit Section data.

As shown on Tables 1 and 2, the above violations did not result in any consequence greater than a written warning!

FINDING 2. Desk audits performed by the division do not generate sufficient revenue to offset their costs. In the last two fiscal years, the net result to the state from these desk audits was a loss of $126,857.

After adding additional collections and subtracting credits* and the two desk auditors' salaries, the final revenue gain/loss to the state as a direct result of desk audits was:

FINAL REVENUE GAIN/LOSS TO THE STATE RESULTING FROM DESK AUDITS

- $92,964 in 1987
- $33,893 in 1986
+ $13,120 in 1985

Note: See Table 5

The burden is on the taxpayer NOT the state, to calculate and remit the correct amount of tax. Desk audits are only necessary as an enforcement aide to generally assure the state that taxpayers understand the report forms and are not making significant mathematical errors or omitting gallons received from inventories.

Liquor Control management should analyze all present tasks performed. Activities which are not cost efficient should be considered for reduction, sampling or elimination unless such employee activity is expressly mandated by law.

*Does not include credits made for double payments or military shipments.

The number of reports and the number of entries checked per report should be based upon some expected rate of return and rate of error. That is, if, after management analysis, it is determined that 100% desk audits (checking all figures mathematically on all report forms and checking every solicitor's gallonage sales figures against all wholesaler's gallonage receipt figures) do not result in collecting a net amount of additional state revenue that at least pays for the desk auditors' salaries, then a less thorough audit sample should be applied.

If voluntary compliance is good, as seems to be the case here, there is no need to establish a policy of a 100% desk audit for every report, every month.

There are 2 FTE in the division who spend all their time performing 100% desk audits on reports received from licensees.

One Compliance Auditor II spends 100% of her time verifying that every penny due the state has been remitted by liquor and wine licensees and by returning overpayments made to the state. No sampling techniques are used but all figures reported are checked. One Field Auditor I verifies beer reports in the same way.

The cost in yearly salaries for these two positions was $36,600 in FY 1987.

Beer desk audits are performed by college degreed accountants hired to be field auditors. However, the Chief Auditor decided to use 2 of his field auditors part time to perform this 1 FTE clerical reconciliation because, he maintains, he had no one else to do it.

As a result of this decision, 2 degreed accountant field auditors have not been allowed to maximize their time doing field audits (see Table 4).

The failure to incorporate sampling techniques in the desk audit function has caused this problem. The Chief Auditor indicates he considered sampling but dismissed it for lack of expertise to institute it.

Management has not collected, analyzed or caused to be reported data which, when analyzed, would point toward more efficient use of personnel.

RECOMMENDATION

2.A. Liquor Control management should seek expertise that would allow it to initiate sampling techniques. This should eliminate a need for 1 FTE beer desk auditor and make additional time available for the Compliance Auditor II to sample beer reports as well as liquor and wine reports.

Final Revenue Gain/Loss to the State Resulting from Desk Audits

Table 5

	Additional Collections by Desk Auditors			Credits* Issued by Desk Auditors for Reporting Errors Discovered			Net Result of Desk Audits (before salaries deducted)			Salaries of Two Desk Auditors			Final Gain/Loss to State		
	FY 85	FY 86	FY 87	FY 85	FY 86	FY 87	FY 85	FY 86	FY 87	FY 85	FY 86	FY 87	FY 85	FY 86	FY 87
Liquor/Wine	$75,800	$48,002	$57,398	$28,244	$46,393	$116,400	+$47,556	+$1,609	-$59,002	$16,823	$17,344	$17,880	$30,733	-$15,735	-$76,882
Beer	Unknown	Unknown	$4,050	Unknown	Unknown	+$1,411	Unknown	Unknown	+$2,638	$17,613	$18,158	$18,720	-$17,613	-$18,158	-$16,082
Totals	$75,800	$48,002	$61,448	$28,244	$46,393	$117,811	+$47,556	+$1,609	-$56,364	$34,436	$35,502	$36,600	+$13,120	-$33,893	-$92,964

*Does not include credits made for double payments or military shipments.

Source: Developed from Division of Liquor Control Desk Audit records

Table 6

STATE TAXES AND FEES REMITTED BY LIQUOR/BEER LICENSEES

	FY 1985			FY 1986			FY 1987		
Category	Total Deposits	Net Collected Desk Audits	Net Collected Field Audits	Total Deposits	Net Collected Desk Audits	Net Collected Field Audits*	Total Deposits	Net Collected Desk Audits	Net Collected Field Audits
Liquor	$14,868,305			$14,688,767			$14,555,212		
Wine $.30	2,342,072	+ $47,556	$ 0	2,525,852	+ $ 1,609	$ 0	2,729,620	-$ 59,002	$ 0
Wine $.04	312,019			336,698			363,926		
Beer 5%	$ 7,063,270	Not compiled	$ 0	$ 7,082,473	Not compiled	$ 0	$ 7,276,963	+$ 2,638	$ 0
Beer 3.2%	198,694	by the Division of Liquor Control		179,470	by the Division of Liquor Control		147,666		
Totals	$24,784,362			$24,813,261			$25,073,387		

* A new Chief Auditor was hired 10/01/85
The 1st field auditor was hired 11/18/85
The 2nd field auditor was hired 01/27/86
The 3rd field auditor was hired 01/27/86
The 4th field auditor was hired 01/05/87

Source: Developed from Department of Public Safety, Division of Liquor Control records

FINDING 3. Liquor Control has little flexibility to deal with delinquent remitters. 50% of the excise tax remitters make delinquent payments each month without penalty.

During separate audit interviews, the division's Chief Auditor and the employee who has actually reconciled liquor tax monthly reports for over 20 years, each stated that approximately 50% or 1/2 of the remitters are late reporting. Further, the employee has estimated that the reports are late an average of two weeks.

RSMo 311.553 requires each manufacturer, out-state solicitor and wholesale dealer selling any intoxicating liquor or wine to file a report and remit tax ON OR BEFORE THE 15TH OF EACH CALENDAR MONTH.

RSMo 311.557 specifically authorizes revocation or suspension of the license by the Director for failure to comply with section 311.553.

Also, RSMo 311.553(2) gives the Director authority to require returns to be made more frequently than and covering periods of less than a month IF he deems it necessary in order to insure the payment of the charges.

Late tax reports cause numerous phone calls and correspondences every month by various agency personnel in order to collect the tax. The cost of collecting is therefore increased. The state loses interest on the late tax monies as well.

The Division of Liquor Control faults the statute for not specifically setting a late penalty fee. However, the provisions of RSMo 311.557 and 553(2) could be exercised in lieu of a late penalty (see above).

RECOMMENDATION

3.A. The General Assembly may wish to enact legislation to add a late penalty fee to the statute for failure to comply with RSMo 311.553.

3.B. Liquor Control should invoke its authority to suspend licenses and/or to require more than 12 payments per year in order to reduce the cost of tax collection to the state.

FINDING 4. In 1987, the state paid $3,836 in auditor salaries for Retail Liquor-By-the-Drink Sunday Sales Audits to retain $1,200 dollars.

This type of audit is performed to verify that a restaurant/resort licensee has, in fact, made sufficient food sales as specified under the law to qualify for a Sunday Sales liquor license.

A Retail Sunday Sales license costs $200 more per year than the same license costs to sell liquor only on the other six days each week.

Again, Liquor Control management has not analyzed all present tasks performed by its employees, nor has it considered non-cost effective activities for reduction, sampling or elimination.

An auditor's salary is approximately $19,000 each year which is $9.13 per hour. The Chief Auditor for Liquor Control has stated that each retail Sunday sales audit takes approximately 60 hours (or 1/2 the time it takes to conduct a wholesale audit). The state thus pays $548 in salary alone to perform the retail audit.

The outcome of the audit has no revenue advantage to the state. The issue is solely compliance. If the outcome verifies the applicant's eligibility, the state will retain the $200 additional license fee already submitted; if the outcome is to deny the license request, the state will return the $200 license fee already submitted.

In the first six months of calendar year 1987, the state paid approximately $3,836 in auditors' salaries (plus travel expenses) to audit seven retailers and retained $1,200 (which would have been collected without the audit) and

returned $200 (which would have been deposited to the state without the audit). Only 1 out of the 7 audits performed in this period found the licensee unqualified.

Eleven additional audits were scheduled but not conducted because the licensee either failed to show up for the audit or withdrew his application. Thus the state returned $2,200 (which would have been deposited if the license applications had not been withdrawn). See table 7 for details.

RECOMMENDATION

4.A. The legislature may wish to make the application fee for the privilege of selling liquor-by-the-drink on Sunday greater or non-refundable or both.

4.B. A more cost effective method for screening Sunday sales applications would be to require the licensee in question to submit evidence, certified by a CPA, attesting to the breakdown of sales between food and alcoholic drinks. The division could adopt regulations specifying the procedures the CPA should follow to verify that the requirement is met. Thus, with a minimal amount of staff time and follow-up, the division could expand its monitoring effort to include a larger number of Sunday sales licensees.

4.C. Another method would be to shorten the audit procedure and train the enforcement agents to review these records.

TABLE 7

Retail Liquor-By-the-Drink Sunday Sales Audit Requests
Disposition Summary (January - June 1987)

Total Number Audit Requests	Disposition					
23	Audited		Received Notice of Audit		Audit Requested But Not Conducted For Lack of Time	Unknown Disposition
	License Approved	License Denied	WITHDREW	NO SHOW		
	6	1	8	3	4	1

Source: Developed from data provided by the Chief Auditor, Division of Liquor Control

FINDING 5. Out-of-state solicitors have never been field audited by Liquor Control Auditors despite the fact that most of this division's $25 million in excise tax payments are made by this group.

The stated goal of Liquor Control's Chief Auditor is revenue collection.

If there were collusion between out-state solicitors and Missouri wholesalers, audits only of the wholesalers may not discover such collusion.

The Liquor Control field audit program is only 1 1/2 years old. The division is concentrating on in-state remitters at this time. However, it should be mentioned that, to date, no audit has resulted in additional collections for the state. It may therefore be more cost effective to try conducting out-of-state audits at least on a trial basis. (The Missouri Department of Revenue employs several out-of-state compliance auditors. Other excise tax remitters, such as special fuel users have been audited at their out-of-state offices by the Department of Revenue in the past and the Department has collected additional taxes.)

RECOMMENDATION

5.A. The Division of Liquor Control should consider auditing out-of-state licensees.

5.B. The legislature may wish to consider placing the authority and responsibility for liquor excise tax collections with the Department of Revenue while leaving enforcement of the liquor laws to the Department of Public Safety.

Such an arrangement would be very similar to the existing statutory method presently used to collect the state's gasoline and diesel and cigarette excise taxes. That is, the Department of Revenue would license businesses, collect the tax and audit licensees; the Department of Public Safety would inspect and investigate licensed premises, chemically test the liquor quality, investigate consumer complaints, handle industry public relations/education and enforce the consumer protection aspects of the law.

The Liquor Control division could take action against licensees as a result of all violations other than tax reporting violations. (The Department of Revenue would take these actions for tax violations.)

NON-COMPLIANCE WITH STATUTORY REQUIREMENTS

FINDING 6. The Division of Liquor Control charges an inspection fee on all gallons of malt liquor sold in Missouri, but does not perform any inspection in return as is required by law.

The Division collected $7,261,943.60 on malt liquor in FY 1986 (from 55 licensees) as an inspection and gauging fee (at $1.86 barrel) on malt liquor sold in Missouri.

The state, however, performs no inspections on any malt liquor and gauges only samples of new products submitted by brewers. ("Inspectors" are a job position in the division expressly provided for in RSMo 311.620.)

An "inspection" as outlined in RSMo 311.510, entails product analysis to ascertain the purity of the hops (or other grains or cereals), yeast and water.

To "gauge" the product means to test the product to determine whether the alcoholic content therein agrees with that specified on the product label.

The division presently "inspects" no products for purity of ingredients (see Finding #7). The Missouri State Highway Patrol laboratory does, however, "gauge" a sample of many new malt beverages before they are approved by the division for sale in Missouri. (The division also accepts chemical gauging reports submitted by manufacturers in lieu of a Missouri State Highway Patrol lab test.)

When such testing occurs in Missouri, it is only on samples of new products.

RSMo 311.520 requires the Director of Revenue to collect the sum of $1.86 per barrel "as a fee for the inspecting and gauging of all malt liquors".

The state is not offering the public any assurance that malt liquor purchased in Missouri is pure or actually contains the alcoholic content specified on the label.

The Division of Liquor Control is, in effect, treating malt liquor as a privilege tax or excise tax as spirits and wines are treated under RSMo 311.550.

RECOMMENDATION

6.A. The General Assembly may wish to consider a statutory change which would allow malt beverages to be privilege-taxed in the same way as liquor and wine are presently taxed under RSMo 311.550.

FINDING 7. The Division of Liquor Control does not inspect any beer or liquor for purity of ingredients as is required by law.

RSMo 311.510 requires the supervisor of liquor control to inspect all beer and other intoxicating malt liquors manufactured or sold in this state to determine that they are made of "pure hops or extract of pure hops" and "pure water" and "wholesome grains, cereals and yeast".

RSMo 311.540 requires the supervisor to "inspect", as well as "gauge" all liquor before offering it for sale in Missouri.

Additionally, RSMo 311.500 requires every brewery within this state to be inspected by the supervisor of liquor control or his agents. ("Inspectors" are a job position in the division expressly provided for in RSMo 311.620.)

There is no state assurance given to the public that beer or liquor purchased in Missouri is made of pure ingredients.

The Division claims that it "relies upon the Federal Bureau of Alcohol, Firearms and Tobacco (BAFT) to test for these qualities and if Federal Label Approval is granted, then the malt beverages have proper qualities."

This, however, is not the case. Ms. Lynn Geddes, Sr. Specialist with BAFT in Washington, D.C. and Mr. Randy Dyer, Chemist at the BAFT National Laboratory in Rockville, Maryland both confirmed that Federal Label Approval testing does not include testing for purity of ingredients as specified in RSMo 311.510.

RECOMMENDATION

7.A. The Division of Liquor Control should begin inspecting the purity of beer and liquor immediately in order to come into compliance with the law.

7.B. The General Assembly may wish to enact a statutory change to delete this duty as specified currently in RSMo 311.500, 311.510 and 311.540 or provide that product sampling is to be done.

ENFORCEMENT SECTION, DIVISION OF LIQUOR CONTROL

FINDING 8. Jefferson City management does not plan, organize, direct or control the activities of its six enforcement districts. These districts, therefore, are essentially independently managed by each District Supervisor.

The evidence to support this finding is the failure by Jefferson City management to demonstrate any performance of the following essential management tasks:

PLANNING:

- develop division or district goals/objectives
- set priorities
- improve work procedures
- set any viable performance standards of quality, quantity or time for District Supervisors or agents
- make forecasts
- maximize employee schedules

ORGANIZING:

- assign work of the district agent or agents
- determine what can be delegated and what cannot
- observe the chain of command as outlined in the division's organization chart

DIRECTING:

- encourage improved performance
- develop and enforce policy/procedures

- ensure that on-the-job agent training in the districts uniformly adheres to division policy and is cost effective

CONTROLLING:

- identify problems
- evaluate performance of the District Supervisors
- check work
- record/document
- reward good performance
- review progress made toward divisional goals/objectives

The Employee Training and Development Unit of the Division of Personnel/Office of Administration's course in "Basic Supervision" delineates the four functions of supervision as:

- Planning
- Organizing
- Directing
- Controlling

The American Management Association basically subscribes to the same four essential elements of management.

Other evidence which supports this finding is found in findings number #9 through 16 of this audit report.

Jefferson City management is responsible for what happens in the six liquor control district regions of the state.

The managing function includes planning and controlling the resources allocated to the division by the General Assembly.

The districts must be held accountable to Jefferson City. In order to fulfill its management responsibility, Jefferson City management must set standards/expectations for the districts/agents.

Comparisons must be made between districts in order to determine consistent policy. Jefferson City management should continually re-evaluate and re-direct resources in order to maximize their effectiveness and efficiency.

The result of Jefferson City management delegating almost all responsibility and authority to the District Supervisors is six essentially independent regions of liquor control in the state.

Jefferson City management cannot demonstrate that it has held the District Supervisors accountable to any standards.

No one in Jefferson City has evaluated the performance of the six District Supervisors.

A de-centralized district organization of the liquor control function is dangerous because there is no assurance that the provisions of the state statute are being fairly and consistently applied. Neither is there any accountability for efficient utilization of state funds.

The cause for Jefferson City management's failure to exert authority and responsibility over the districts may be a belief that Jefferson City management is only responsible for supporting the District Supervisors if and when they need help.

Jefferson City management is reactive rather than proactive. It responds as a service/support to the decision makers who are the District Supervisors occupying the middle management

layer in the division's current organization structure. It is inappropriate for districts of the state to act essentially independent.

RECOMMENDATIONS

Steps must be taken to make the state the controller of the statewide liquor control program.

8.A. For Jefferson City Liquor Control management to actively begin managing the districts, it would be necessary to prepare a plan document which would include setting objectives, outlining procedures and assigning responsibilities. After such a plan is devised, controls could be instituted to check actual performance against the plan. Management reports would have to be created, forms revised, policies issued and various data collected by Jefferson City management to analyze. The result of such management study would then result in re-direction of efforts in order to improve the efficient utilization of human resources.

After devising such a management reporting system, the division would then be ready to evaluate the performance of the District Supervisors. Performance evaluations should be conducted at least once a year by the Jefferson City manager who is responsible for the performance of six district supervisors.

8.B. Another way to recoup state control of the program would be through reorganization.

FINDING 9. The recommendations of individual enforcement agents essentially control liquor license issuance and disciplinary actions against licensees.

Jefferson City management has delegated unmonitored authority and responsibility to individual enforcement agents.

Agents decide when a license violation should be punished by a verbal warning, a written warning, a recommendation to suspend or revoke the license or whether the violation warrants any of the above actions.

RSMo. 311.060 sets the following qualifications for all liquor licensees:

- good moral character
- qualified legal voter
- taxpayer of the county, town, city or village
- never had a Missouri liquor license revoked
- never been convicted of any law applicable to the manufacture or sale of liquor
- does not employ anyone who has had a liquor license revoked or has been convicted of violating any liquor law

The division's liquor license procedure, as outlined in its brochure, requires the applicant to submit his application form to his respective territory agent who makes an investigation of the applicant and makes a recommendation as to whether he believes a person is or is not qualified for a license. If he thinks the applicant is not qualified for a license, he states his reason in writing to his District Supervisor who, in turn, makes an independent investigation and makes his recommendations in writing to the Supervisor.

The Supervisor then determines whether the applicant is qualified.

The Division does not ask the agent to fill out any investigation form or to write any narrative summary of the investigation or hold him accountable in any way.

A very small number of applicants are ever denied licenses.

The main problem with this licensing procedure is that it is based entirely upon the first investigation. If the agent approves the license (that is, does not recommend denying) no supervisor up the chain of command will conduct an independent investigation. Therefore, Jefferson City management has delegated the responsibility of liquor license approval to its lowest responsible field employee and, then, has not established any standard written policy/procedure specifying what constitutes a satisfactory background investigation.

The Division recently began installing the MULES (Missouri Law Enforcement System) computer access capability in the district offices which is intended to give them more de-centralized control over the licensing procedure.

Policies and procedures should be cost efficient and protect the public by ensuring equal application of the law to all licensees. Managers, by definition, are responsible for holding employees accountable.

Most business licenses issued by the Missouri Department of Revenue do not have personal field investigations before license approval. It would be less costly and less risky to use notarized affidavits and computer criminal records, previous liquor licensure records and county/city tax rolls

than to use the field enforcement agent for approving licenses.

Territory agents are in especially vulnerable positions. Living and working in their territories, they may know the license applicant or his friends or relatives. The Division has unnecessarily placed ultimate responsibility for issuing licenses in their hands.

It is necessary for the state to insist upon a standardized method of background investigation in order for it to ensure that the investigations are thorough and consistent.

Centralizing this function and separating it from the enforcement activity would both aide in ensuring statewide control of license issuance and could cost less to administer.

The agents' individual methods of investigating liquor license applicants' backgrounds prior to granting licensure and individual punishment decisions per violation are both inefficient and non-standardized. These various methods employed cannot offer assurances that the law is impartially and uniformly applied to all applicants over the entire state.

Because it is a state law which is being administered, it is a Jefferson City central office function to exert leadership by managing its resources in such a way as to ensure the public of fair, consistent and efficient application of the law statewide.

RECOMMENDATIONS

9.A. The Division of Liquor Control could increase cost effectiveness by either centralizing the license issuance function or tightening controls over field processing of liquor licenses, thereby reducing agent vulnerability in the field.

FINDING 10. Jefferson City management has not exercised sufficient oversight to assure the public that the state's liquor control law is being uniformly enforced or that state funds are being utilized efficiently.

There is no management reporting system in evidence in the division. Jefferson City management has not requested, collected or analyzed district enforcement data in an effort to improve cost efficiency.

On-the-job training of enforcement personnel is not monitored by Jefferson City management to ensure that all agents operate consistently.

No performance evaluations of district supervisors are conducted by Jefferson City management.

No supervisor in Jefferson City analyzes the very limited statistical data presently received monthly from the districts.

Jefferson City management has not provided adequate direction in the form of stated priorities and goals for field operations. Management has not developed written procedures for inspections, investigations, and other tasks. In the absence of clear directives, agents must rely on verbal interpretations of policy and procedures which may vary among staff and hinder uniform application of procedures. In addition, there are no controls to assure that agents are applying the procedures, rules and laws uniformly and equitably across the state.

Much of the responsibility for supervision and direction is left with the individual agent. No one in Jefferson City

reviews the work assignments and schedules made by these agents.

Input/output ratios are not studied by Jefferson City management.

Equal treatment of persistent violators cannot be assured across the state by Jefferson City management.

Verbal warnings to licensees are matters of individual agent/district discretion and are not monitored by Jefferson City management.

Jefferson City management does not verify that districts do, in fact, comply with the statutory requirement to notify each county with complaint lists or copies of their violation reports.

The division has not implemented a system for projecting and recording costs by activity or for each field office. There is no detailed or analytical information about:

- how the agents spend their time; and
- how much it costs to operate each district office.

The number of inspections and investigations resulting in violations organized by type and by district agent is the kind of data which is not collected and evaluated by Jefferson City management. Such data and necessary directives issued to the districts as a result could be considered one kind of proof that Jefferson City managers have exerted their proper control over the districts.

Those persons employed in managerial capacities are held accountable for the performance of their subordinates. It is therefore essential to institute a system of management

in the work unit. The work of a manager is to plan, organize, direct and control the resources allotted to the unit by the General assembly. Oversight is a necessary component of that system in order to assure efficient utilization of these resources.

The effect of insufficient oversight by the central management staff is district autonomy.

Such autonomy creates a potential for inefficient use of state funds and inconsistency in application of the law to licensees.

Failure to segregate expenditures by activity hampers evaluation of the agency's effectiveness. Jefferson City management does not know the amount of funds expended for key result areas such as administration, wholesale field audits, retail field audits, license application processing, inspections, investigations and public relations. Thus, the Division cannot determine whether or not expenditure patterns reflect progress toward accomplishment of the Division's purposes. The lack of procedures to segregate expenditures by location and by activity also hampers evaluation of the efficiency with which operations are conducted.

Oversight is limited because the Jefferson City management staff has not provided clear directives to staff about the type of information they need to determine the efficiency and effectiveness of division operations.

The operations reports provided currently by districts are not adequate for such determinations.

Oversight of the division's financial management is inadequate because management staff have not used available financial data effectively, have not implemented a system for projecting and recording costs by activity or by location, and have not routinely reported financial analysis and potential problems.

RECOMMENDATIONS

10.A. In order to assure that agents' time is optimally utilized, Jefferson City management needs to define functions, set priorities among functions, implement a system which records time by function (listing activities under each function), analyze the time records to determine how the agents are using their time, and redirect the use of time as necessary.

10.B. To assure that financial oversight is achieved, Jefferson City management should direct the staff to implement a financial management system which uses cost centers to accumulate costs by field office and by activity, establishes procedures for summarizing and analyzing financial information, and specifies times for presenting the results in a written report to the Director of Public Safety, at least quarterly.

10.C. To assure that licensees are fairly and consistently handled over the entire state, Jefferson City management should establish policy/procedure directives, communicate them to the districts in writing and then develop a feedback mechanism which will ensure statewide compliance.

FINDING 11. Jefferson City management has failed to establish any targeted number of inspections to be performed by agents; to provide any inspection form; to set any inspection criteria or to specify appropriate and uniform sanctions for violations discovered as a result of an inspection. Further, there is little or no evidence to show a definition for an inspection.

The Division has divided the job of enforcement agent into three basic activities:

- inspections
- investigations
- public relations contacts

Agents are not expressly required by law to perform any of these activities. However, the Chief Enforcement officer has stated he believes that when licensees regularly see an agent, it deters the licensee from committing violations of law.

If inspections are important, then they should be standardized, given a specified frequency and agents should be held accountable and evaluated on the quality and quantity of their inspection work.

The only evidence of inspection procedures supplied to Oversight by the Division of Liquor Control was received after the division's review of the first draft of this audit. It consisted of 5 stapled, typed sheets titled "Enforcement" which do not identify any author, date or specify that they originated with the Missouri Division of Liquor Control.

The inspection effort should not be left to the individual agents' discretion to define, set frequencies, decide who fails and how to punish the failure as is currently the case.
At present, no proof of inspection is required to be filed in Jefferson City. The agent merely notes the number he performs each day on his daily log.

The effect of the state allowing agent discretion in these inspection matters is to create a vulnerable environment for abuse.

By allowing the districts/agents to be autonomous, the state cannot ensure the public that the state's laws are uniformly, fairly and efficiently administered statewide.

RECOMMENDATIONS

11.A. The division should analyze the inspection function to determine proper standards and frequencies. Forms should then be developed and uniform penalties for violations established. Agents should be evaluated on the quality and quantity of their inspection work.

FINDING 12. Jefferson City management has failed to establish a system for collecting any viable employee performance measures.

Daily Log forms and district Monthly Logged Activity reports are the only two reports (other than expense accounts) which are submitted by the districts to Jefferson City. However, these two reports are not filled out consistently among agents/districts for lack of activity definition.

Jefferson City management has not made clear written distinctions between activities such as:

- investigations:
  - o applicant background
  - o undercover
  - o surveillance
  - o other
- public relations contacts
- inspections

A division policy/procedure manual does not exist (other than a liquor license application procedures manual).

Until such definitions are made, management cannot begin the task of setting standards in order to measure agent/district productivity.

In order for management reporting data to be useful for analysis, activities to be measured must first be carefully defined and described. In this way management can have some assurance that what is being measured among groups/individuals is comparable.

The process of defining performance measures should include the careful selection of activities in such a way as to assure that they are recorded and counted only once.

The "Agent Daily Log Forms" presently used are useless to Jefferson City management because they allow individual agents to record the number of activities accomplished that day using their own individual definitions of the terms "inspection", "investigation" or "public relations".

The Monthly Logged Activity Reports presently filled out by districts are also useless to Jefferson City management because the form fails to record specific enough data from which any meaningful conclusions could be derived. That is, a complaint will be counted under "complaints logged" and the same complaint may or may not also be recorded under "investigations logged", "citations" or "warnings logged" without any distinctions being made. Investigations may also be counted up to three times on the form without differentiation.

Add to this problem the fact that "complaint" and "investigation" are not defined and one can see why the supervisor and Chief Enforcement Officer of the Division have both stated that they do not ever use either of these reporting forms for evaluation, analysis or any other purpose. They indicated the forms have not been revised in many years, and they are only kept for historical purposes in the event that auditors or others would request such numbers.

It should be noted that the supervisor of Liquor Control has indicated he relies heavily on the district supervisors to monitor their agents by reviewing their daily logs. This audit was limited to a review of Jefferson City management; however, the effectiveness of district level supervision

would appear to be questionable if, indeed, district supervisors are trying to monitor agents activities by using the Daily Log form.

RECOMMENDATIONS

12.A. Jefferson City management should establish policies and guidelines directing the use of agents' time and formally communicate them to staff.

12.B. These guidelines should be used by Jefferson City management to revise the daily time and monthly activity report forms to show how agent time is spent by specific activity.

12.C. Jefferson City management should then use these tools (among others) to conduct employee evaluations and for re-directing statewide activities to obtain greater efficiency and effectiveness in field operations.

12.D. Jefferson City management should use Daily Activity reports to determine the amount of time agents spend on travel.

FINDING 13. Jefferson City management has not established a complaint handling procedure which assures that agents are maximally and consistently utilized in every district of the state.

The Supervisor has indicated that complaint handling should be the districts' first priority and that every complaint is investigated. No written division policy or procedure, however, exists.

The individual agent is to use his judgement in deciding how to best conduct complaint investigations.

Most (if not all) of the complaints received in the Jefferson City office are merely referred to the appropriate districts.

Jefferson City management makes no attempt to monitor complaints.

Effective management requires a standardized complaint-handling procedure against which the districts/agents can be evaluated to assure consistent and efficient performance.

Without a standardized complaint handling procedure there is no way for the state to make various comparisons among agents/districts or to ensure that the public is uniformly protected across the entire state.

RECOMMENDATIONS

13.A. Jefferson City management should conduct a statewide study of complaint handling and formalize a procedure in an effort to maximize utilization of resources and increase public protection.

FINDING 14. Jefferson City management provides no standardized method of on-the-job training for new agents.

Jefferson City management has relegated the specific job training of new agents to the individual districts. Jefferson City managers have stated that agents get their specific job skills training in their district. Districts usually assign a new agent to an experienced agent for a few weeks for O-J-T (on the job training).

Cost efficiency and consistent district operations require standardized methods.

There are short and long, efficient and inefficient means to various ends. One of the tasks of management is to analyze methods, determine the most cost efficient and fair way(s) to do a given thing, write a policy and procedure and, finally, hold employees accountable to it.

The result of no standardized job training is inefficient and inconsistent employee activity.

RECOMMENDATIONS

14.A. Jefferson City management should define agent tasks and expectations and determine the most efficient and competent ways to perform these tasks. A training plan should be written and agents/districts should be held accountable to it.

FINDING 15. Contrary to stated division policy, extensive background investigations of liquor control agent candidates are conducted (by the MSHP) AFTER hiring rather than before.

Since mid 1984, it has been management practice to hire agents and then request a Highway Patrol investigation. (It should be noted that troopers were aware that they were investigating already hired persons.)

Of the 11 agents hired since June 1984, none have been affected by the results of the Highway Patrol investigation even though some of the trooper's did not recommend hiring the now already employed agent.

Investigations by troopers usually consist of personally interviewing ex-employers, creditors, family, neighbors, teachers and character references given on the employment applications. The trooper then writes an extensive narrative report summarizing his findings and making recommendations.

It is not cost effective to conduct detailed background investigations on employee applicants after hire. Performance of unnecessary activities is not efficient use of taxpayer money.

The Highway Patrol troopers performing these investigations to determine who may not be a suitable candidate for the job of liquor control agent, may not investigate as diligently when they know the person has already been employed as an agent.

Any negative trooper recommendation would tend to make the division defensive of its hiring decision. The likelihood of ever firing an agent as the result of this investigation

is highly remote as it would have to be some dramatic discovery such as a criminal conviction. (Convictions should be checked routinely now on all applicants, as a matter of course, before hire.)

RECOMMENDATIONS

15.A. The division should see to it that all critical matters are investigated on agent applicants before hire. This could entail using other resources than the Highway Patrol's. Telephone calls could be placed by liquor control's management personnel.

FINDING 16. Jefferson City management has not established any viable "drinking" policy or any other policies for agents to ensure that undercover investigations are competently and consistently handled over the entire state.

A recent article in the Kansas City Times newspaper quoted a liquor control agent as saying, "The division does not have guidelines for how much an agent can drink on the job when working undercover. Just good judgement!"

As the Liquor Control Division administers a state law (not a regional law), it is imperative that it control and coordinate the activities of all field personnel. In 10 typed sheets stapled together titled "Rules of Conduct" dated April 15, 1981, page 3 (provided to the Oversight Division by the Division of Liquor Control) under "Use of Alcohol on Duty", it states, "A. Employees shall not consume alcoholic beverages while on duty except in the performance of duty." This clearly exempts agents from any drinking policy while performing undercover investigations. And, on another 3 typed sheets stapled together and titled "Standards of Conduct", which does not identify any author, date or specify that it originated with the Missouri Division of Liquor Control, under the subject of "Conduct and Personal Habits", page 1, #2 it again states:

> "Agents assigned as enforcement or investigative officers may drink alcoholic beverages while on duty only in connection with their official assignments. Consumption of same will be permitted in moderation while on duty only under circumstances which make such drinking necessary for the effective performance of assignments."

The term "moderation" is vague and undefined and does not constitute a viable standard.

The division is accountable for all actions of its district employees.

Employees need to know what is expected of them. They need to know what the limits are and should be held accountable to certain standards. Should an agent overindulge on assignment (without justification) he should know that there will be consequences of imprudent behavior.

In the above mentioned newspaper quotation, it is apparent that Jefferson City management has not made this employee aware of any drinking policy while on undercover assignments.

If Jefferson City management does not set standards for field operations, it cannot hold districts/agents accountable. The sensitive nature of undercover investigation requires prudent and professional conduct.

There is no agent manual in existence! The division provided copies of some assorted policy statements after review of the first audit draft. However, they are largely undated and the sources are never mentioned. There is no evidence that these statements are currently in force or monitored by Jefferson City managers.

The State has set no standards to assure professional conduct nor has a sample of personnel files revealed there have been any incidences when Jefferson City management has disciplined employees for imprudent behavior.

RECOMMENDATIONS

16.A. Jefferson City management should establish a policy and procedure manual for field operations.

MISSOURI TAXES AND FEES COMPARED WITH OTHER STATES

FINDING 17. Increased liquor taxes/fees could produce significant additional state revenues.

Missouri taxpayers may lose as much as $25 million in annual revenue because alcoholic beverage fee tax rates have not been increased to keep pace with inflation (see Table 8).

The excise taxes and inspection fee have not been increased since 1969.

Missouri is ranked 47th in per capita alcoholic beverage tax revenues for the year ending June 30, 1985 (see Table 9) and the state is ranked ninth in a comparison of the nine contiguous states in per capita alcoholic beverage tax revenues for the same year (see Table 10). Missouri is below the national average and contiguous states' average in liquor tax rates charged for distilled spirits, beer and wine (see Table 11).

BEER

The fee for inspecting and gauging malt liquor is now $1.86 a barrel or $.06 per gallon. The fee is collected as an excise tax. For a listing of excise tax rates charged per gallon on beer by license states, see Table 12.

End of prohibition	1933-34	Fee was $1.00 barrel
	1935	Fee was $.62 barrel
	1961	Fee was $.93 barrel
	1969	Fee was $1.86 barrel effective 1-1-71

Because Missouri alcoholic beverage tax rates have not changed since 1969, revenues have not kept pace with price changes. Prices have increased significantly and inflation has reduced the value of liquor tax dollars (see Exhibit 1 and Table 13). The inspection and gauging fee for malt liquor (beer) has not been raised in eighteen years although liquor prices increased over 38% just during the five year period between 1977 and 1982. Due to inflation, the $1.86 fee assessed in 1969 is worth only 32.4% of its 1969 value or $.60. The last increase in 1969 was only the second such increase since Prohibition was repealed 54 years ago.

DISTILLED SPIRITS

Established rates	1935-	$ .80 per gallon
	1961-tax set at	$1.20 per gallon
	1969-tax set at	$2.00 per gallon

The distilled spirits tax has not changed in eighteen years although liquor prices increased over 38% just during the five years between 1977 and 1982. Due to inflation, the $2.00 distilled spirits tax assessed in 1969 is worth only 32.4% of its value or $.65 in today's dollars. The last increase in 1969 was only the second such increase since Prohibition was repealed in 1933. Only two states (Maryland and Kentucky) rank lower than Missouri in excise tax rates per gallon on distilled spirits (see Table 14).

WINE

1935	$.02 tax per gallon for light wine (14% or less)
	$.10 tax per gallon for fortified (+14%)
1961	$.15 tax set per gallon for all wines
1969	$.30 tax set per gallon
1984	$.04 additional tax added to the $.30 base for the wine marketing fund (1-1-84 through 1-10-91)

The wine excise tax was set at $.30 per gallon in 1969. The four cent increase effective from January 1, 1984 to January 10, 1991 is for the use of the department of agriculture, for the wine marketing fund. The base tax rate of $.30 assessed in 1969 is worth only 32.4% of its 1969 value now, or $.10 in today's dollars. The increase in 1969 was only the second such raise in the tax since Prohibition was repealed 54 years ago. The price of alcoholic beverages increased over 38% during the five years between 1977 and 1982. The increases for the following five years are not yet known but continued increases have occurred.

For a comparison of excise taxes charged by specific categories by state for wine per gallon, see Table 15. Increasing Missouri's tax rates to a level comparable to the national average would increase the tax on distilled spirits by $1.11 per gallon, the tax on beer by $.11 per gallon for 3.2% or less alcoholic content and by $.12 per gallon for +3.2% beer and the tax on wine by $.36 per gallon (see Table 8).

SUMMARY

Tax rates have not kept pace with inflation.

The state could realize significant additional revenues from an increase in tax rates. An additional $24,202,593 in tax revenues could have been collected in 1985-1986 if Missouri's rates had been comparable to those of the surrounding states. If Missouri's rates had been comparable to the national average, this change could have generated additional tax revenues of $25,252,081 for Missouri based on the 1985-1986 collections for alcoholic beverages. The actual tax collections were $24,352,996 (this figure for amount of tax collected includes the malt liquor - beer -

inspecting and gauging fee as a tax since it is collected as such; this figure also omits the $.04 per gallon of wine designated for the wine marketing fund (see Table 8).

17.A. Alternative I

If the General Assembly were to increase excise taxes to a level comparable to the average of the contiguous states (Arkansas, Illinois, Iowa, Kansas, Kentucky, Nebraska, Oklahoma and Tennessee), Missouri could collect a total of $24,202,593 in additional revenue (see Table 8).

Such an approach would increase the tax on distilled spirits by $.97 per gallon, the tax on beer by $.10 per gallon for 3.2% or less alcoholic content and by $.12 per gallon for +3.2% beer, and the tax on wine by $.36 per gallon (see Table 8).

17.B. Alternative II

If the General Assembly were to increase excise taxes to a level comparable to the national average, the tax on distilled spirits would increase by $1.11 per gallon, on beer the increase would be by $.11 per gallon (3.2% or less) and $.12 per gallon on beer (with more than 3.2% alcohol), and the tax on wine would increase by $.36 per gallon. With this approach, Missouri could collect a total of $25,252,081 in additional revenue (see Table 8).

TABLE 8

POTENTIAL ADDITIONAL REVENUES RESULTING FROM TWO ALTERNATIVE LIQUOR TAX INCREASES

ALTERNATIVE I

	Missouri's Current Rate Per Gallon	1985-1986 Tax Collections for Missouri	Comparable to Contiguous States: Average Rate for Contiguous States	Additional Cost Per Unit*	Prospective Add'l Revenues**
Distilled Spirits	$2.00	$14,565,200.85	$2.97	$0.97	$7,064,122.40
Beer	$0.06	$179,544.39	$0.16 for 3.2% or less	$0.10	$299,240.65
		$7,082,399.21	0.18 for +3.2%	$0.12	$14,164,798.41
Wine	$0.34	$2,525,852.29	$0.70	$0.36	$2,674,431.83
Totals		$24,352,996.74			$24,202,593.29

ALTERNATIVE II

	Comparable to National Average: Average Rate for Nation	Additional Cost Per Unit*	Prospective Add'l Revenues**
Distilled Spirits	$3.11	$1.11	$8,083,686.46
Beer	$0.17 for 3.2% or less	$0.11	$329,164.71
	$0.18 for +3.2%	$0.12	$14,164,798.41
Wine	$0.70	$0.36	$2,674,431.83
Total			$25,252,081.41

* per gallon
** based on 1985-86 tax collections for Missouri

TABLE 9
Alcoholic Beverages
Total and Per Capita Revenues
Year Ending June 30, 1985
Thousands of Dollars

	Sales and Gross Receipts Tax Revenue	Per Capita	Rank	License Fees	Per Capita	Rank
Alabama	$92,178	$22.92	7	$2,684	$0.67	28
Alaska	$13,634	$26.17	5	$1,702	$3.27	50
Arizona	$37,937	$11.90	24	$2,289	$0.72	29
Arkansas	$24,200	$10.26	29	$1,000	$0.42	17
California	$134,753	$5.11	46	$29,697	$1.13	36
Colorado	$24,840	$7.69	40	$2,377	$0.74	30
Connecticut	$32,676	$10.29	28	$6,419	$2.02	47
Delaware	$5,137	$8.26	36	$578	$0.93	31
Florida	$421,764	$37.11	1	$17,383	$1.53	41
Georgia	$109,410	$18.31	11	$1,699	$0.28	12
Hawaii	$20,635	$19.58	9	$0	$0.00	1
Idaho	$9,237	$9.19	33	$989	$0.98	34
Illinois	$69,814	$6.05	44	$1,899	$0.16	10
Indiana	$37,006	$6.73	41	$8,645	$1.57	42
Iowa	$16,271	$5.64	45	$4,424	$1.53	40
Kansas	$43,120	$17.60	12	$1,227	$0.50	21
Kentucky	$48,758	$13.09	19	$1,866	$0.50	22
Louisiana	$73,505	$16.40	14	$2,309	$0.52	23
Maine	$31,300	$26.89	3	$1,650	$1.42	38
Maryland	$28,431	$6.47	43	$338	$0.08	5
Massachusetts	$83,547	$14.35	16	$564	$0.10	6
Michigan	$91,473	$10.07	31	$20,017	$2.20	49
Minnesota	$52,228	$12.46	22	$494	$0.12	7
Mississippi	$35,405	$13.55	18	$2,544	$0.97	32
Missouri	$24,785	$4.93	47	$2,208	$0.44	19
Montana	$13,855	$16.77	13	$1,411	$1.71	45
Nebraska	$13,143	$8.18	37	$248	$0.15	8
Nevada	$13,104	$14.00	17	$23	$0.02	3
New Hampshire	$10,602	$10.62	27	$2,063	$2.07	48
New Jersey	$58,410	$7.72	39	$3,975	$0.53	24
New Mexico	$15,692	$10.82	26	$807	$0.56	26
New York	$171,407	$9.64	32	$31,788	$1.79	46
North Carolina	$122,418	$19.57	10	$2,255	$0.36	15
North Dakota	$5,951	$8.69	35	$245	$0.36	16
Ohio	$70,211	$6.53	42	$15,817	$1.47	39
Oklahoma	$41,631	$12.61	21	$1,761	$0.53	25
Oregon	$10,887	$4.05	48	$1,303	$0.48	20
Pennsylvania	$130,176	$10.98	25	$11,468	$0.97	33
Rhode Island	$7,609	$7.86	38	$155	$0.16	9
South Carolina	$101,983	$30.47	2	$1,446	$0.43	18
South Dakota	$8,757	$12.37	23	$208	$0.29	13
Tennessee	$61,457	$12.91	20	$1,424	$0.30	14
Texas	$332,774	$20.33	8	$25,905	$1.58	43
Utah	$16,802	$10.21	30	$283	$0.17	11
Vermont	$14,232	$26.60	4	$526	$0.98	35

TABLE 9 (continued)

Alcoholic Beverages
Total and Per Capita Revenues
Year Ending June 30, 1985
Thousands of Dollars

	Sales and Gross Receipts Tax Revenue	Per Capita	Rank	License Fees	Per Capita	Rank
Virginia	$92,754	$16.26	15	$3,527	$0.62	27
Washington	$103,047	$23.37	6	$7,057	$1.60	44
West Virginia	$6,963	$3.60	49	$2,298	$1.19	37
Wisconsin	$43,864	$9.19	34	$213	$0.04	4
Wyoming	$1,451	$2.85	50	$0	$0.00	2
Total	$3,031,224	$13.14		$231,208	$0.82	

Note: Per capita figures are based on total estimated population as of July 1, 1985. In cases where two states have the same per capita amount, the two states are ranked alphabetically within that range.

Sources: The Book of the States, 1986-87 Edition
Current Population Reports, Bureau of the Census
Data User News of Feb. 1987, Estimates of the Resident Population of States as of July 1, 1985.

TABLE 10

Acoholic Beverages
Total Tax Revenues
Per Capita and Ranked
Missouri and Contiguous States
Year Ending June 30, 1985
Thousands of Dollars

	Sales and Gross Receipts Tax Revenue	Per Capita	Rank
Kansas	$43,120	$17.60	1
Kentucky	$48,758	$13.09	2
Tennessee	$61,457	$12.91	3
Oklahoma	$41,631	$12.61	4
Arkansas	$24,200	$10.26	5
Nebraska	$13,143	$8.18	6
Illinois	$69,814	$6.05	7
Iowa	$16,271	$5.64	8
Missouri	$24,785	$4.93	9
Total	$343,179	$10.14	

Note: Per capita figures are based on total estimated population as of July 1, 1985. In cases where two states have the same per capita amount, the two states are alphabetically within that range.

Sources: The Book of the States, 1986-87 Edition
Current Population Reports, Bureau of the Census
Data User News of Feb. 1987, Estimates of the Resident Population of States as of July 1, 1985.

TABLE 11

A COMPARISON OF MISSOURI'S LIQUOR TAX RATES TO THE NATIONAL AVERAGE AND TO THE CONTIGUOUS STATES' AVERAGE LIQUOR TAX RATES PER GALLON

Category	Missouri's Tax Rate	National Average	MO's Rate	Average Contiguous States	MO's Rate
Distilled Spirits	$2.00	$3.11	-36%	$2.97	-33%
Beer	$ .06	$ .17 3.2% or less	-65%	$ .16 3.2% or less	-62%
		$ .18 for +3.2%	-67%	$ .18 for +3.2%	-67%
Wine	$ .34	$ .70	-52%	$ .70	-52%

Note: Prices are per gallon.

Twenty-six states differentiate tax rates for types of wine. For example, 8 states assess one rate for table wine, a higher rate for vermouth and dessert wine, and the highest rate for champagne and sparkling wine. Native wine is often taxed less. A national average was computed.

The contiguous states are Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Tennessee, Illinois, and Kentucky. Iowa is a control state and was not included in the averages.

Sources: State and Federal Beverage Alcohol Tax Briefs, 1985, State Tax Rates in License States Distilled Spirits Council of the United States, Inc.

TABLE 12

TAX RATES ON BEER (In Dollars Per Gallon)	3.2%	+3.2%
Alaska	.35	.35
Arizona	.16	.16
Arkansas	.15625	.234375
California	.04	.04
Colorado	.08	.08
Connecticut	.10	.10
Delaware	.064516	.064516
District of Columbia	.07258	.07258
Florida	.48	.48
Georgia	.32258	.32258
Illinois (a)	.07	.07
Indiana (b)	.115	.115
Kansas	.18	.18
Kentucky (c)	.080645	.080645
Louisiana (d)	.32258	.32258
Maryland	.09	.09
Massachusetts	.10645	.10645
Minnesota (e)	.064516	.12903
Missouri	.06	.06
Nebraska	.14	.14
Nevada	.09	.09
New Jersey	.0333	.0333
New Mexico	.18	.18
New York	.055	.055
North Dakota	.08	.08
Oklahoma	.32258	.40323
Rhode Island (f)	.064516	.064516
South Carolina	.768	.768
South Dakota	.16129	.26774
Tennessee	.12581	.12581
Texas (g)	.19355	.19355
Wisconsin	.064516	.064516
Total	5.1936	5.5234
Divided by 32 states for average	.1623	.1726
National average	.17	.18
Contiguous states (i) average	.16	.18

Notes:

a. For Illinois in-state production and sale of up to 4.9 million gallons, 75% of tax is refunded.

b. For Indiana in-state total production and sale of up to 100,000 bbls., 50% of tax refunded.

c. For Kentucky in-state production of up to 300,000 bbls., 50% of tax rebated.

d. For Louisiana in-state production of up to 300,000 gallons-$5 bbls.

e. For Minnesota in-state production and sale of up to 75,000 bbls., $2/bbl tax credit on all beer.

f. For Rhode Island in-state production and sales up to 100,000 bbls. exempted.

g. For Texas in-state production under 75,000 bbls. exempt from 25% of tax. Also rate shown is for 4% beer or less.

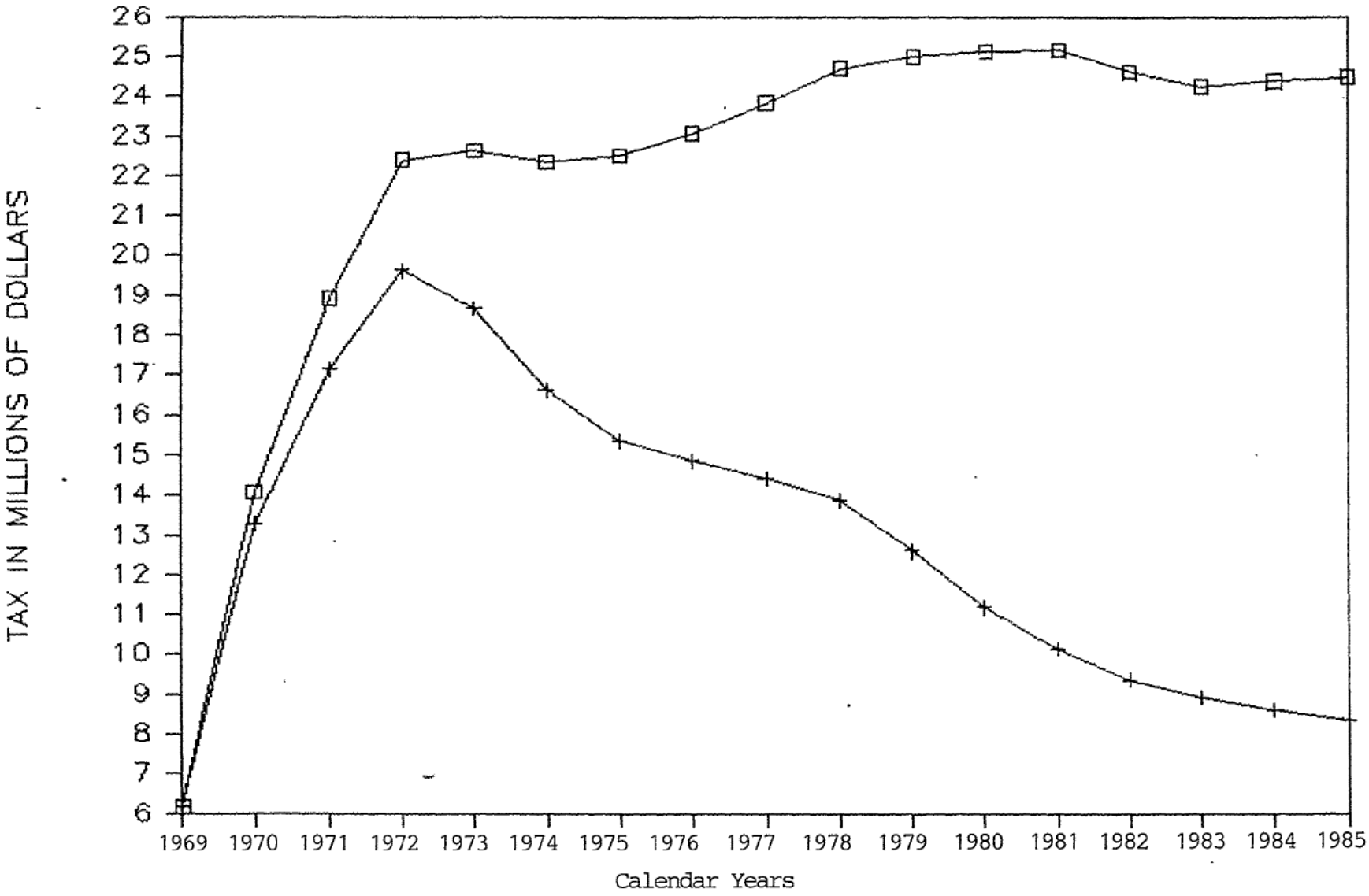
h. For Wisconsin, a brewery in U.S. producing less than 300,000 bbls., -50% of the tax on the first 50,000 bbls.

i. For the states contiguous to Missouri: Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Tennesse, Illinois, and Kentucky. The control state Iowa was omitted from the averages.

j. District of Columbia was included in national average.

k. Base tax rates were used.

MISSOURI ALCOHOLIC BEVERAGE TAX REVENUE



Sources: Missouri Revenue Information System, Historical Tax Receipts 1950-1984, Research Center-State and Regional Fiscal Studies Unit, College of Business and Public Administration, UMC, 1984
United States Dept. of Labor Bureau of Statistics-CPI Averages 1967-1987
Total Deposits Fiscal Years 83-84, 84-85, 85-86, MO Division of Liquor Control

EXHIBIT 1

TABLE 13

MISSOURI ALCOHOLIC BEVERAGE TAX REVENUES
1969 - 1985
Thousands of Dollars

Calendar Year	Tax Collections	CPI-U Conversions	% Calendar Year	= Average Per Year	Value of Tax in 1969 dollars
1969	$6,168 *	109.8	109.8	100%	$6,168.00 *
1970	$14,073	109.8	116.3	94%	$13,286.46
1971	$18,918	109.8	121.3	91%	$17,124.46
1972	$22,389	109.8	125.3	88%	$19,619.41
1973	$22,640	109.8	133.1	82%	$18,676.72
1974	$22,349	109.8	147.7	74%	$16,614.22
1975	$22,509	109.8	161.2	68%	$15,331.81
1976	$23,068	109.8	170.5	64%	$14,855.52
1977	$23,826	109.8	181.5	60%	$14,413.75
1978	$24,692	109.8	195.4	56%	$13,875.03
1979	$24,990	109.8	217.4	51%	$12,621.44
1980	$25,131	109.8	246.8	44%	$11,180.65
1981	$25,162	109.8	272.4	40%	$10,142.39
1982	$24,615	109.8	289.1	38%	$9,348.76
1983	$24,245	109.8	298.4	37%	$8,921.25
1984	$24,377	109.8	311.1	35%	$8,603.65
1985	$24,475	109.8	322.2	34%	$8,340.64

* One-half year only.

The $.04 wine tax added in 1984 for wine marketing development fund for the use of the Department of Agriculture has been omitted from the above figures.

Sources: "Total Deposits Fiscal Years 83-84, 84-85, 85-86" Division of Liquor Control
"US Department of Labor, Bureau of Statistics, CPI Average 1969-1987"
"MO Revenue Information System, Historical Tax Receipts, 1950-1984", Research Center
State Regional Fiscal Studies Unit, College of Business and Public Administration, UMC, 1984.

TABLE 14

RANKING OF STATE EXCISE TAX RATES PER GALLON ON DISTILLED SPIRITS FROM LOWEST TO HIGHEST

1.	Maryland	$1.50
2.	Kentucky	$1.92
3a.	California	$2.00
3b.	Illinois	$2.00
3c.	Missouri	$2.00
4.	Nevada	$2.05
5.	Delaware	$2.25
6.	Colorado	$2.28
7.	Texas	$2.40
8a.	Arkansas	$2.50
8b.	Kansas	$2.50
8c.	Louisiana	$2.50
8d.	Rhode Island	$2.50
9.	Indiana	$2.68
10.	New Jersey	$2.80
11.	Nebraska	$2.90
12.	South Carolina	$2.96
13a.	Arizona	$3.00
13b.	Connecticut	$3.00
14.	Wisconsin	$3.25
15.	Georgia	$3.79
16.	South Dakota	$3.80
17.	New Mexico	$3.94
18.	Tennessee	$4.00
19a.	Massachusetts	$4.05
19b.	North Dakota	$4.05
20.	New York	$4.09
21.	Minnesota	$4.39
22.	Oklahoma	$5.00
23.	Alaska	$5.00
24.	Florida	$6.50

Source: Book of States, 1986-87 Edition

TABLE 15

Excise Taxes Charged by Specific Categories by State for Wine Per Gallon

	Native	Over 14% to 21%	14% or less	Over 14% to 22%	Over 14%	21% or less	Over 21% and/or sparkling	Over 14% to 24%	24% or less	Over 21% to 24%	Sparkling and/or champagne	17% to 24%	Sparkling hard cider	Over 22%
ca	$0.85		$0.85		$0.85	$0.85	$0.85		$0.85		$0.85		$0.85	
ona			$0.84			$0.84			$0.84					
nsas	$0.75		$0.75		$0.75	$0.75	$0.75		$0.75		$0.75		$0.75	
fornia			$0.01		$0.02						$0.30		$0.02	
rado	$0.03		$0.28		$0.28	$0.28	$0.28		$0.28		$0.28		$0.28	
ecticut			$0.30		$0.30	$0.30	$0.75				$0.75		$0.75	
ware	$0.40		$0.40		$0.40	$0.40	$0.40		$0.40		$0.40		$0.40	
rict of Columbia			$0.15		$0.33						$0.45		$0.45	
ida	Free		$2.25		$3.00						$3.50		$3.50	
gia			$1.51		$2.54									
nois			$0.23		$0.60									
ana	$0.27					$0.47	$2.68							
as	$0.15		$0.30		$0.75									
ucky	$0.50		$0.50		$0.50	$0.50	$0.50		$0.50		$0.50		$0.50	
siana			$0.11					$0.23			$1.59			
land	$0.40		$0.40		$0.40	$0.40	$0.40	$0.40	$0.40		$0.40		$0.40	
achusetts											$0.70			
esota	$0.1514		$0.79			$0.79				$1.58	$1.50		$1.50	
ouri	$0.34		$0.34		$0.34	$0.34	$0.34	$0.34	$0.34	$0.34	$0.34		$0.34	
aska			$0.65		$1.25			$1.25		$1.25				
da			$0.30	$0.50										$2.05
Jersey	$0.10		$0.30	$0.30	$0.30	$0.30	$0.30	$0.30	$0.30	$0.30	$0.30		$0.30	$0.30
México	$0.95		$0.95	$0.95	$0.95	$0.95	$0.95	$0.95	$0.95	$0.95	$0.95		$0.95	$0.95
York											$0.66			
h Dakota											$1.00	$0.60		
homa				$0.63	$1.25						$1.88			
e Island	$0.20										$0.50			
h Carolina						$0.90								
h Dakota			$0.90								$2.00			
essee						$1.10								
s			$0.20		$0.41						$0.52			
		$0.45	$0.25											
mn Total	$5.13	$0.45	$13.57		$15.21	$9.16	$8.19	$3.46	$5.60	$4.42	$20.11	$0.60	$10.98	$3.30
mn Average	$0.34	$0.45	$0.56	$0.58	$0.80	$0.61	$0.74	$0.57	$0.56	$0.88	$0.91	$0.60	$0.78	$1.10
iguous States														
ls	$1.45		$3.06		$5.10	$2.35	$1.25	$1.25	$1.25	$1.25	$3.13		$1.25	
age	$0.36		$0.51		$0.51	$0.78	$0.62	$1.25	$0.62	$1.25	$1.04		$0.62	

l Average=$.6986

onal Average=$.6997

Source: Public Revenues from Alcohol Beverages, State Tax Rates in License States, 1985, Distilled Spirits Council of the United States, Inc.

TABLE 15 (continued)

	Over 24%	Under 17%	Artificially Carbonated	Over 14% to 20%	Still	21% to 24%	Vermouth	Cider	Unfortified	Native 14% or less	Native 14% to 21%
Alaska	$0.85		$0.85		$0.85		$0.85	$0.85	$0.85		
Arizona	$4.00										
Arkansas	$0.75		$0.75		$0.75		$0.75	$0.75	$0.75		
California											
Colorado	$0.28		$0.28		$0.28		$0.28	$0.28	$0.28		
Connecticut	$0.75										
Delaware	$0.40		$0.40		$0.40		$0.40	$0.40	$0.40		
District of Columb											
Florida	$3.00										
Georgia	$2.54										
Illinois	$0.60										
Indiana	$2.68										
Kansas	$0.75										
Kentucky	$0.50		$0.50		$0.50		$0.50	$0.50	$0.50		
Louisiana	$1.59										
Maryland	$0.40		$0.40		$0.40		$0.40	$0.40	$0.40		
Massachusetts					$0.55		$0.55	$0.03			
Minnesota	$3.08								$0.27		
Missouri	$0.34		$0.34		$0.34		$0.34	$0.34	$0.34		
Nebraska	$1.25										
Nevada	$2.05										
New Jersey	$0.30		$0.30		$0.30		$0.30	$0.30	$0.30		
New Mexico	$0.95		$0.95		$0.95		$0.95	$0.95	$0.95		
New York			$0.33		$0.12			$0.02			
North Dakota		$0.50									
Oklahoma											
Rhode Island					$0.40						
South Carolina						$2.00				$0.05	$0.45
South Dakota				$1.40							
Tennessee											
Texas											
Column Total	$27.05	$0.50	$5.10	$1.40	$5.83	$2.00	$5.31	$4.81	$5.03	$0.05	$0.45
Column Average	$1.35	$0.50	$0.51	$1.40	$0.48	$2.00	$0.53	$0.43	$0.50	$0.05	$0.45
Contiguous States											
Totals	$3.85		$1.25		$1.25		$1.25	$1.25	$1.25		
Average	$0.77		$0.62		$0.62		$0.62	$0.62	$0.62		

TABLE 16

LICENSE AND CONTROL STATES

LICENSE STATES	CONTROL STATES
1. Alaska	1. Alabama
2. Arizona	2. Idaho
3. Arkansas	3. Iowa
4. California	4. Maine
5. Colorado	5. Michigan
6. Connecticut	6. Mississippi (a)
7. Delaware	7. Montana
8. Florida	8. New Hampshire
9. Georgia	9. North Carolina (b)
10. Hawaii	10. Ohio
11. Illinois	11. Oregon
12. Indiana	12. Pennsylvania
13. Kansas	13. Utah
14. Kentucky	14. Vermont
15. Louisiana	15. Virginia
16. Maryland	16. Washington
17. Massachusetts	17. West Virginia
18. Minnesota	18. Wyoming (a)
19. Missouri	
20. Nebraska	
21. Nevada	
22. New Jersey	
23. New Mexico	
24. New York	
25. North Dakota	
26. Oklahoma	
27. Rhode Island	
28. South Carolina	
29. South Dakota	
30. Tennessee	
31. Texas	
32. Wisconsin	

Notes: License states have privately owned retail and wholesale outlets. The industry is state owned and operated in control states.

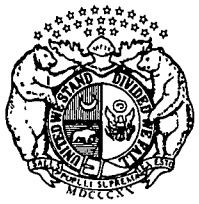
(a) Mississippi and Wyoming license private retail package stores and wholesale distribution is state controlled.

(b) Local boards control and operate retail stores in North Carolina.

Sources: The Book of the States, 1981 - 1987 Edition
State and Federal Beverage Alcohol Tax Briefs, 1985, Distilled Spirits Council of the United States, Inc.

JOHN ASHCROFT
Governor

RICHARD C. RICE
Department Director



CHARLES E. SMARR
Supervisor

STATE OF MISSOURI
DEPARTMENT OF PUBLIC SAFETY

DIVISION OF LIQUOR CONTROL

P.O. Box 837
Jefferson City, Missouri 65102
Telephone 314-751-2333

September 18, 1987

Ms. Natalie Tackett
Oversight Division
State Capitol Building
Jefferson City, MO 65101

Dear Natalie:

Please find enclosed the Division of Liquor Control's response to the Oversight Division Audit Report.

Sincerely,

Charles E. Smarr

Charles E. Smarr
Supervisor of Liquor Control

CES:js

Enclosure

The Division of Liquor Control is pleased to have the opportunity to participate in the Oversight Division audit process and has given the Oversight Division its complete cooperation. The purpose of this document is to provide the division's response to the findings and recommendations in the Oversight Audit Report (OAR). The division hopes that the interested reader will take time to carefully review the entire agency response.

The Division of Liquor Control has a progressive management philosophy of constantly reviewing the division's administrative and management practices, policies and procedures with the goal of maximizing productivity through the utilization of the most reasonable, efficient and cost-effective measures possible given the division's limited resources. During the past three years, the division has taken the initiative in making numerous administrative and management improvements that have greatly increased the division's cost-effectiveness, significantly enhanced its professionalism and improved its services to the taxpayers of this state. Consistent with its philosophy of self-improvement, the division will carefully review the OAR and utilize the suggestions and recommendations to supplement the division's existing practices, policies and procedures.

Some of the highlights of the division's administrative and management achievements during the past three years include:

1) Computerization and office automation - The advent of computerization and office automation coupled with a lean, professional staff allows the agency to operate at an unprecedented level of efficiency and cost-effectiveness. Installation of an IBM System 36 Computer in the State Office has allowed for computerization of the excise tax collection system, the development of a computerized property inventory system, a computerized agent activity system and a computerized licensee citation history. The recent installation of computer terminals and PCs in each of the six district offices now allows the districts to have word processing capability, access to the licensing system, access to the price posting system, access to the MULES system for criminal history checks and provides the capability to generate reports in the district offices.

2) Reorganization of the division's audit and collection program - In 1985, the division hired as Chief Auditor a certified public accountant with seven years experience at the State Auditor's office to organize and oversee the duties of the audit section and hired four professionally qualified auditors. The Chief Auditor developed a comprehensive audit manual to ensure necessary audit procedures are being performed by the auditors in an efficient and cost-effective manner.

3) Implemented a new enforcement hiring procedure and policy consisting of updated and upgraded written examinations, an interview panel consisting of all six district supervisors and background investigations conducted by the Missouri State Highway Patrol.

4) Implemented a new minimum training requirement for enforcement personnel requiring all agents and special agents to have a minimum of 240 hours of basic law enforcement training. Also appointed a task force to develop a comprehensive training program specifically designed for enforcement personnel.

5) Appointed a division task force to review the efficiency of the division's licensing and renewal process.

6) Developed and initiated a new Employee Performance Planning and Appraisal Form in cooperation with the Office of Administration Personnel Division, in accordance with Chapter 36, RSMo.

1. The purpose of the field audits is to ascertain whether there is compliance with certain liquor laws and regulations, including whether the correct amount of excise taxes due the state are in fact being collected. Thus, additional revenue generated by field audits in relation to their cost is not an appropriate measure of effectiveness since the primary objective of the field audits is to determine statutory compliance, not to generate additional revenue.

However, since the inception of the new audit staff in 1985, state excise tax collections have increased by $300,000.00. State excise tax collected by the division for fiscal year 1987 totaled $25,073,388.45, an increase of $260,127.00 over fiscal year 1986. The excise tax collections increased in fiscal year 1987 for the third straight year and this year's excise tax collections represent the largest amount of revenue ever collected by the division, surpassing the previous record high set in 1981. While the division cannot directly attribute the increase in state excise tax collections to the new audit staff, it is clear that enough additional tax revenue is being collected by the state to offset their cost.

The present field audit staff now consists of well-qualified, well-trained professionals who are managed in a very cost effective manner. The new Chief Auditor was hired in 1985 and appropriations were received from the General Assembly in 1985 and 1986 to fund three new field auditor positions. The new Chief Auditor, a CPA with seven years experience with the State Auditor's Office, was hired in October, 1985. The four new auditors, who are all degreed accounting majors, were hired between November, 1985 and January, 1987. The complete audit staff has only been in place for six months.

The Chief Auditor has developed a formal audit manual and developed standard audit programs for each type of license, in accordance with a recent State Auditor's Office report recommendation, that is utilized by the auditors to conduct audits in a cost effective manner. The manual's purpose is to provide the auditors with the necessary guidelines to perform a thorough, meaningful review that properly documents work performed. At the present time, the audit section is beginning audit procedures that have even greater potential for additional revenue production. These auditing procedures include warehouse inventory audits that will reveal if all merchandise is being properly reported to the division and whether all tax on that merchandise is being paid.

The Supervisor of Liquor Control is mandated by statute to enforce and administer all the Liquor Control Laws of the State of Missouri. Some of these liquor laws generate revenue, others do not. While the revenue producing liquor laws are given the highest priority by the audit section, compliance with other liquor laws is also required to be ascertained by the audit section. These laws include Sections 311.332 - 311.338, price posting, Sections 311.095 and 311.097, retail food sale requirements for resort and Sunday restaurant-bar licenses and Section 311.070, ordinary commercial credit.

1.A. The audit section's goal is to have the capability to audit every wholesaler on a two year cycle. However, the current staff of four field auditors is not sufficient to perform meaningful audits of every wholesaler at least once every two years. The division has established an audit plan whereby fifty wholesaler audits will be performed annually. Approximately 80% of the four auditors' time is devoted to wholesale audits with the remaining 20% of their time being devoted to performing retail audits. This audit plan will allow for all wholesalers to be audited once every three years. In order for the division to be able to perform meaningful audits of all Missouri wholesalers once every two years, an additional two field auditors are needed.

The suggested methods for maximizing current resources will be addressed separately:

a. One of the most significant efficiencies derived from the division's recent office automation is word processing. A typed report on a word processor is much easier to revise than reports that are only handwritten. Also, the audit reports become part of a violation report that may be used in court proceedings. Therefore, it is necessary that the audit reports be typed. A more practical recommendation would be for additional clerical staff to type audit reports and perform data entry. A request for additional clerical staff was included in last year's budget

request, but funding was not received and this same request is included again in this year's budget request.

b. The auditors' main duties will continue to be to perform field audits of wholesalers and retailers.

c. Addressed in Finding #4.

d. Shortening audit procedures and narrowing the scope of the audit for taxes due would be a very ineffective method of assuring compliance with the liquor laws and regulations. If this recommendation is suggesting that certain liquor laws and regulations not be enforced by the Supervisor, then this recommendation is contrary to the Supervisor's statutorily mandated duty to enforce and administer all provisions of the state Liquor Control Laws.

e. Additional clerical staff is needed to perform reconciliations of monthly reports which will mainly consist of data entry after September, 1987.

f. Addressed in Finding #2.

g. If to decrease time spent on re-work is assumed to mean that review of the auditors' work is unnecessary, then this recommendation appears to be inconsistent with the American Institute of Certified Public Accountants' first standard of field work, which requires that "the work is to be adequately planned and assistants, if any, are to be properly supervised".

h. The use of the Chief Auditor to perform some audits is currently being done. However, it would be unreasonable to expect the Chief Auditor to be able to devote very much of his time to field audit tasks when his primary duties and responsibilities as Chief Auditor are to supervise the work of three compliance auditors, four field auditors and direct a comprehensive audit program for the division.

1.B. There is no apparent justification for even considering this recommendation. Chapter 311 (The Liquor Control Law), Chapter 312 (The Nonintoxicating Beer Law) and the Rules and Regulations of the Supervisor of Liquor Control provide for a comprehensive, interrelated liquor control system whereby the production and distribution of alcoholic beverages is regulated from the time of production until the time the product reaches the consumer. These Liquor Control Laws and regulations provide for an integrated system of liquor licensing, revenue collection and enforcement functions, the effectiveness of which, depends upon the Division of Liquor Control having complete authority and jurisdiction over all phases and aspects of the industry. The three-tier system of distribution for alcoholic beverages creates an interrelationship between these functions to such an extent that it would be totally impractical to separate the functions.

Moreover, the Division of Liquor Control has specialized knowledge and expertise in this area and concentrates its full efforts in the area resulting in a high degree of specialization and a very effective, cost-efficient system of revenue collection. The entire annual budget for the division is $2.4 million, while the division collects over $27 million every year in revenue. Furthermore, with revenue collections by the Division of Liquor Control at an all-time record high of over $27 million, it would appear that the present system is working quite well, operating in a very cost-efficient and cost-effective manner.

1.C. Having one auditor was the exact situation which existed prior to 1985 and the problems associated with having only one auditor were recognized by the General Assembly and in fact provided the basis for the legislature appropriating funds for three additional auditors in 1985 and 1986. During the early 1980's, the division had only one auditor to conduct wholesale audits throughout the entire state to assure that the state was receiving all excise taxes due on alcoholic beverages sold in this state. As a result, the division and the state were relying upon the honor system instead of an audit system for the collection of $25 million in excise taxes. The protection of this revenue is vital to the fiscal health of the state. To guarantee payment and collection of this tax, the division must continue to have the capability to audit the activities of the 365 manufacturers, importers and wholesale dealers in Missouri on a regular basis. These auditors are also needed to investigate the numerous citizen and industry complaints regarding violations of the price-posting and credit laws and the failure to satisfy statutory licensing requirements.

An audit staff of one auditor would not be adequate to ascertain whether there is compliance with the liquor laws and regulations for which the audit section is

responsible. Such a small audit staff would result in audits only being conducted in response to complaints which would result in very limited, selective enforcement and would not provide for consistent and uniform enforcement of the liquor laws throughout the state. In the early 1980's when the division had only one auditor, only twelve wholesale audits could be performed annually. At that rate, it would take approximately twelve years for one auditor to perform audits on all of the Missouri wholesalers once. The current audit staff will require approximately three years to perform meaningful audits of all Missouri wholesalers. In order for the division to be able to perform meaningful audits of all Missouri wholesalers every two years, two more auditors are needed.

2. The purpose of the desk audits is to determine whether the correct amount of revenue due the state is being collected, not to generate more revenue than they cost. The desk audits performed by the division during the last three fiscal years, resulted in the collection of an additional $181,200.00 in revenue through the reconciliation of monthly reports submitted by the out-state solicitors and Missouri wholesalers. If the monthly reports would not have been reconciled, these errors would not have been discovered. Credits are issued for military shipments, double payments by wholesalers and solicitors or errors in overpayment. If these credits were not issued, the state would be receiving an unjustified windfall at the expense of the taxpayer.

The utilization of computerization and office automation by very experienced employees results in the desk audits being performed in an extremely efficient manner with a remarkably high degree of cost-effectivness. The desk audits of the excise taxes on spirits and wine are performed by the Compliance Auditor II who devotes full-time to these duties. The spirits and wine reports are reconciled monthly by comparing amounts reported by solicitors as being shipped with the amounts reported being received by wholesalers. This reconciliation is performed through the use of a new computer program recently developed by the division's data processing coordinator that matches all of the reports and then generates exception reports for discrepancies, which has greatly enhanced the efficiency and cost-effectiveness of the desk audits.

The beer reconciliations are performed by two of the Auditor I's and approximately fifty total hours are devoted to this reconciliation each month. The monthly beer reports were until now being reconciled manually by the Auditor I's. Beginning in September, 1987 these reconciliations are being performed by use of a new computer program, also recently developed by the division's data processing coordinator, in a manner similar to the spirits and wines system. Starting in January, 1988, the solicitors and wholesalers will be able to submit reports by floppy disks. This will reduce the data entry by the Compliance Auditor II and the Auditor I's.

2.A. Sample testing should not be utilized in an area which is so vital to ensuring that the correct amount of tax due the state is being collected. Sampling techniques require the use of sample precisions. Utilizing sampling techniques with a precision level as small as ±5% could result in potential annual revenue losses of up to as much as $1,250,000 when revenue collections are $25 million.

Beginning September, 1987, all solicitor and wholesaler reports will be reconciled by computer and 1 1/3 FTE (at a cost of $20,000/year), to ensure the proper amount of taxes and fees are paid. The use of 1 1/3 FTE with a computerized system would appear to be an extremely cost-effective manner to audit the reporting of over $25 million in revenue each fiscal year.

3. Based upon excise tax reports submitted for the months of March through July, 1987, approximately 30% of the reports were delinquent with an average delinquency of only 1 1/2 days for all reports submitted during that period. There is no statutory penalty provision for late payment.

3.A. The division has already invoked its authority to ensure all reports are submitted. The division issued a memo to all Missouri wholesalers and outstate solicitors on March 20, 1987, notifying licensees that their licenses would not be renewed if all reports were not current. As a result, all licensees that renewed their licenses became current on their monthly reports as of May 31, 1987.

The division has also invoked its authority to collect delinquent taxes by informing licensees of all delinquent taxes in a timely manner. If no response is received after two delinquent notices, the division notifies the licensee that the delinquent amount will be turned over to the bonding company for collection if not paid in a timely manner. This additional revenue collection effort has been very effective and has resulted in licensees reporting on a more timely basis.

Requiring a licensee to report more than once a month as provided for in Section 311.553.2, RSMo 1986, appears to be an impractical solution that would only serve to compound the problem. Requiring a licensee to report every two weeks would only add to an already large workload and the reports submitted for the first two weeks of the month could not be verified for accuracy because the other reports against which these would be reconciled would not yet be on file with the division.

3.B. Last year's State Auditor's Office report recommended the division seek legislation to establish penalties for late filing of monthly tax reports. The division concurred with that recommendation and has already drafted proposed legislation that would impose penalties for late filings. The division plans to introduce this proposed legislation during the next session.

4. Retail audits are compliance audits and are not intended to generate revenue. The primary purpose of retail audits is to ensure that the division issues licenses only to qualified applicants and to ensure that licensees are in compliance with the state laws passed by the General Assembly requiring licensees to do a certain minimum amount of food sales in order to qualify for this type of license (i.e. Sections 311.095 and 311.097, RSMo 1986). These audits are necessary to ensure that the division does not issue licenses to unqualified applicants who falsify food figures and records to fraudulently induce the division to issue a license to an unqualified applicant and to carry out the Supervisor's statutorily mandated duty to enforce all state Liquor Control Laws and regulations.

Revenue production is clearly not the determining factor when reviewing licensing qualifications. If revenue production was the determining factor in the licensing of applicants, then any applicant who submitted an application form with a license fee would be issued a license and the statutory requirements for a liquor license would be disregarded.

4.A. The current license fees are set by state law. The legislature is the only governmental body vested with the authority to set license fees (See Art. 10, Sec 1 & 2, Missouri Constitution). Thus, the proposed license fee increase and non-refundable license fee are matters to be determined by the General Assembly.

4.B. Prior to 1980, a regulation of the division required a CPA's certificate and a food sales verification form signed by a CPA to accompany all Sunday sales applications. In 1979, a State Auditor's Office report recommended that the Division of Liquor Control begin strictly enforcing the CPA requirement and this recommendation was immediately implemented by this division. However, because of the numerous complaints received by the State Auditor's Office and the division from licensees complaining about the high cost of audits by CPAs, the regulation was amended to its current form by deleting the CPA requirement. Due to the division's previous experience, the division does not feel that implementation of this recommendation would be practical.

4.C. To shorten the audit procedures would make the audit inconsistent with generally accepted auditing standards requiring sufficient competent evidential matter be obtained to afford a reasonable basis for an opinion on the food sales requirements. Only 20% of the auditors' time is devoted to retail audits. The training of enforcement agents to perform retail audits is not a practical solution. This approach was tried by the division in the past. It was found that agents did not possess the necessary expertise or experience to perform retail audits and that retail audits took too much time away from the agent's enforcement duties.

5. The 350 outstate solicitors licensed by the division, located in 33 states and five foreign countries, have not been audited by the division in the past because of inadequate funding. Due to the limited amount of expense money and the small audit

staff, the major focus of the division's audit effort has been on instate wholesaler audits.

5.A. The audit section would be able to perform outstate solicitor audits on a regular basis if additional auditors and expense money were appropriated for that purpose. The division has plans to audit outstate solicitors on a test basis to the extent that our current limited resources will permit. In addition, the audit section will explore the possibility of establishing a report exchange agreement with liquor control auditors of other states to obtain reports for review to determine the accuracy of reports submitted by outstate companies.

5.B. See response to 1.B.

6. The division inspects malt beverages and is discharging its statutory obligation in a practical, cost-efficient manner. Any new malt beverage product must be inspected by the division before permission is granted for sale of the product in the state. To register a malt or spirituous product for sale in Missouri, the suppliers must submit the following to the Division of Liquor Control:

1. ATF Form F 5100.31, Federal Label Approval. The Federal Bureau of Alcohol, Tobacco and Firearms (BATF) laboratory receives samples of all products for analysis and the products are tested before label approval is granted.
2. A sample of the product. The sample of the product is analyzed for alcoholic content by the Missouri State Highway Patrol Laboratory.
3. Actual copy of flat label. These labels are retained by the division for product identification.
4. Primary American Source of Supply registration. This registration ensures that the supplier is the only company that is to market the product in Missouri.

In addition to the product registration requirements in Missouri, malt and spirituous product quality assurances and product integrity are complimented by the following procedures:

1. Manufacturer's quality control requirements. The manufacturer's products are monitored constantly to ensure that the product quality is consistently high.
2. The recently initiated information exchange agreement between the Division of Liquor Control and the BATF. This agreement allows for the exchange of information on any known irregular products.
3. BATF's market basket testing procedures. BATF randomly selects alcoholic beverages from the retail level to test for various impurities and to determine if the product is the same as the original product approved for sale. If the market basket testing reveals any product irregularities, the Division of Liquor Control is notified under the exchange of information agreement.

All of the above reporting and inspection requirements and procedures are what have evolved to satisfy the inspection and gauging requirement for malt and spirituous products throughout the industry. The division will explore the possibilities of reviewing the manufacturer's quality control measures and requesting periodic reports on analysis performed on their products sold in the state. The division will also explore the feasibility of a state level market basket approach to randomly test products at the retail level.

6.A. The division believes that adequate inspecting and gauging is being performed on all malt beverages in this state to provide an extremely high degree of reliability as to purity of product. However, the division will continue to pursue cost-efficient measures to ensure product quality and integrity. The division is achieving the desired result in this area with the minimum amount of expense to the state through cooperative efforts with the BATF and the industry.

The recommendation to literally inspect and gauge <u>all</u> malt liquors manufactured or sold in this state is simply not practical. It would obviously be impossible to inspect every can, bottle and keg of beer sold in Missouri. The logical solution is some type of sampling technique, which is presently being utilized.

7. As stated in Finding #6, the division does inspect malt beverages in numerous ways and these same methods are utilized with the spirituous products. The Federal Label Approval gives minimum assurances that the label correctly states the contents of the container.

7.A. While the division does not have the means to literally inspect all the malt and spirituous products for purity, the current reporting and inspection requirements and procedures provide for a high degree of reliability as to purity of product. Extremely expensive, sophisticated equipment would be necessary to test for purity of all product, (i.e., this equipment would need to be appropriated for the Highway Patrol Laboratory), or the state would have to enter into a contract with private certified laboratories to do this testing for the state. The division is currently discharging this statutory requirement in the most cost-effective manner possible.

7.B. Section 311.500, RSMo 1986, pertains to inspection of every brewery in the state. The inspection of every brewery in the state will be performed on an annual basis by the audit section. During the course of the inspection, quality control measures will be evaluated and recent product analysis will be reviewed.

8. One of the primary purposes for having six district offices with a district supervisor assigned to supervise each district office is to provide for the proper planning, organizing and directing of agents and enforcement activities throughout the state. This system of organization has proven to be an effective means of management in that district supervisors have experience in managing agents and directing enforcement activities in their respective districts.

District supervisors schedule and conduct regular monthly meetings at the district offices with all agents in their district. These agent meetings consist of planning and organizing agent enforcement activities and objectives, receiving agent daily logs and expenses, reviewing division directives, policies and memos from the State Office, liquor laws, regulations, licensing procedures, recent court decisions and Attorney General Opinions concerning this division, and open discussions. Furthermore, there is constant management supervision by the State Office through communication between the State Office and district supervisors by written correspondence, daily telephone conversations and regular district supervisors meetings in Jefferson City, all of which provides assurances that the liquor laws are being fairly and consistently applied throughout this state.

9. The division's current license qualification investigation procedure provides for a very thorough, efficient and cost-effective review of an applicant's qualifications for a liquor license with tight controls over the issuance of liquor licenses. The current procedure is designed to effectively distribute throughout the state the workload of reviewing and processing 5,500 license applications annually in the most effective and cost-efficient manner possible.

Centralizing the license investigative procedure would actually cost the state more money than the present system because of the additional manpower and expense money that would be required to investigate 5,500 license applicants out of the central office. The license issuance function is presently centralized in the State Office in that licenses can only be issued by the Supervisor of Liquor Control.

The current system utilizes the agent's knowledge and information to review applications in his territory which is absolutely essential when conducting applicant background investigations which may include information of hidden ownership by some person who does not possess the qualifications for a state liquor license. The division's current procedure was recently reviewed by the division licensing task force and was determined to be the most effective and cost-efficient use of the division's limited resources.

Criminal record checks were at one time made by agents in the field, but are now centralized and run in the district offices thanks to the division's new district MULES lines. The idea of running all criminal history checks in the State Office was reviewed and rejected by the division due to additional required FTE costs and resulting inefficiency in the licensing process. Individual enforcement agents have no control over liquor license issuance or disciplinary actions, only the Supervisor of Liquor Control is authorized to issue licenses and take disciplinary action against licensees.

The current license qualification investigation procedure requires agents to review all applications for liquor licenses in their assigned territories to assure

that applicants possess all necessary qualifications for licensing as set out in Section 311.060, RSMo, requiring the applicant, 1) to be a qualified legal voter and taxpaying citizen of Missouri, 2) to have never been convicted of any law applicable to the manufacture or sale of intoxicating liquor, and 3) to be of good moral character.

A person submitting an application is required to answer a detailed application under oath. Applicants for state liquor licenses are required to submit with their application for license, a copy of their Missouri voter's registration certificate and paid Missouri tax receipt, as evidence of their qualification as a legal voter and taxpaying citizen of Missouri.

After the applicant has completed the application, it is submitted, with the accompanying documentation, to the agent who makes an investigation of the applicant and makes a recommendation as to whether the person is qualified for a license. If an agent determines that the applicant meets the qualifications set out in Section 311.060, the agent will recommend that the license be issued by signing his name to the application.

The application is then forwarded to the district supervisor who independently reviews the application and all attachments thereto. The district supervisor then conducts a criminal record check on the applicant for possible felony convictions which might disqualify the applicant for failure to be of good moral character. If the district supervisor finds that the applicant possesses the qualifications for a license, he will recommend the issuance of the license by signing his name to the application.

However, if an agent believes that an applicant is not qualified for a license, the agent's signature of approval on the application is withheld and a written report stating reasons is submitted with the application to the district supervisor. The district supervisor then makes an independent investigation and makes a recommendation in writing to the Supervisor of Liquor Control. The Supervisor then reviews the application and the report and determines whether the applicant is qualified for a license. If the the Supervisor determines that the applicant does not meet the qualifications set out in Section 311.060, then the applicant is notified in writing of the denial and the reasons for denial.

This very thorough review process enables the division to carefully screen all applicants so that only qualified applicants will receive liquor licenses.

10. The State Office is in constant communication with the districts to ensure that the state's Liquor Control Law is being uniformly enforced and that state funds are being utilized efficiently.

10.A. The division presently has set priorities among functions with timely processing and issuance of licenses and investigations of all complaints received by the division alleging violations of the state liquor laws and regulations as its top priority.

The division also presently has an elaborate system which records time by function in great detail. Agents are required to maintain daily activity logs which reflect and account for all time worked. These daily logs are standardized forms that reflect the agent's daily activity including all points of travel, mileage, time by function, brief description of licensee visited or other purpose of travel, a code for the various functions, a detailed breakdown of expenses claimed, a detailed breakdown of number of inspections, investigations made, arrests, citations and public relations appearances and total hours worked.

These daily activity logs are carefully reviewed and analyzed by the district supervisors to determine how the agents are using their time and to redirect use of the agents time as necessary.

10.B. The division will explore the possibilities of developing such a system.

10.C. The division is already doing what is being recommended. Policy/procedure directives are issued by the State Office to the districts on a regular basis. Dozens of these directives were provided to the Oversight Division during the audit. District supervisor meetings are held on a regular basis and provide a feedback mechanism in addition to correspondence and telephone communication with the districts.

11. The division currently has a written policy clearly defining routine inspection and a standardized procedure for conducting a routine inspection. All routine inspections of licensed premises are presently recorded in the agents' daily activity logs. The agent prepares an investigation report if a violation of the liquor laws or regulations is observed during the course of a routine inspection. This report is then forwarded to Jefferson City for appropriate action. In addition to what is currently required, routine inspection forms could be developed, but would result in additional paperwork and duplication of effort.

Agents perform as many routine inspections of licensed premises as their limited time and expense money will permit. It would be difficult to develop a standard number of inspections to be performed by agents due to fluctuations in expense money, available time and other duties (i.e. licensing, complaint investigations, undercover investigations). All agents are currently evaluated on routine inspection work in the new Employee Performance Planning and Appraisal Form recently developed and initiated by the division in cooperation with the Office of Administration Personnel Division, in accordance with Chapter 36, RSMo.

12. The division has an established system for collecting viable employee performance measures. Agents of the division are required to fill out and keep a detailed daily log that shows how the agent's time is spent by specific activity. These daily logs contain information pertaining to miles traveled, daily expenses, hours worked and enforcement activities performed such as routine inspections, investigations and violations. The agents' daily logs are reviewed and analyzed by the district supervisors to determine how agents are utilizing their time, which is one method (among others), that is currently used by district supervisors when evaluating agents performance and for maximizing efficiency and effectiveness in field operations. Information provided in agents daily logs is transferred to a monthly recap activity report and forwarded to Jefferson City where the reports are analyzed by the State Office for efficiency and effectiveness of field operations. The information in these reports regarding enforcement activities are then entered into the computer system for future reference.

13. The division has an established complaint handling procedure designed to maximize utilization of resources and public protection. All complaints regarding alleged liquor law violations received by the division, are recorded on a standardized complaint form. Agents are then directed by their district supervisors to conduct an investigation into the alleged violation. Agents then conduct an investigation and prepare a written report of their investigation and forward the report together with the complaint form to the State Office for further review and is filed in the licensee file. Copies of all complaint forms are maintained in a separate confidential file kept by the Chief of Enforcement, since all complaints are considered confidential.

14. A specialized enforcement training program to supplement the 240 hour basic law enforcement training requirement is currently under development with projected implementation in 1988. A specialized enforcement training program was discontinued by the division in the late 1970s due to budget cuts.

Three years ago, the division did not have a training requirement or policy for agents and special agents. In 1984, the new Supervisor initiated a division training policy requiring a minimum of 120 hour basic law enforcement training policy. On September 29, 1986, the Supervisor appointed a ten-member Division Enforcement Training Program Development Task Force to develop a comprehensive enforcement training program.

As a result of the Task Force's study, the Supervisor recently upgraded the division's enforcement training requirement to a minimum of 240 hours of basic law enforcement training. The Division Task Force is currently working closely with the Peace Officer Standards and Training Program in the Director's Office on the development of a specialized training program specifically designed for agents and special agents of the Division of Liquor Control.

15. Background investigations are absolutely essential in law enforcement. The division will continue to have the Missouri State Highway Patrol conduct background investigations but will explore the feasibility of having them completed before hire, given the division's time constraints for hiring. The division already conducts its own limited preliminary background investigation by telephone before agents are hired.

Three years ago, background investigations were not being conducted on agent candidates. In 1984, the new Supervisor instituted a new agent hiring policy for the division which includes updated written examinations, oral interviews before an interview panel consisting of the six district supervisors, medical examinations, 120 hours of basic law enforcement training and background investigations of agent candidates by the Missouri State Highway Patrol.

16. The division has established extensive and comprehensive policies and guidelines for agents to ensure that undercover investigations are competently and consistently handled throughout the state. The division has always had a policy concerning the use of alcohol when on duty as well as off duty to ensure that agents conduct themselves in a professional manner at all times.

The division has always had extensive and comprehensive agent guidelines, policies and procedures and has even recently developed an agent liquor license manual. The division's agent guidelines, policies and procedures are included in the 1) Rules of Conduct, the violation of which can result in disciplinary action, 2) Standards of Conduct, policy and guidelines concerning conduct and personal habits, 3) General Duties and Responsibilities, policy and guidelines, 4) Enforcement policy and guidelines including guidelines for investigative procedure, investigative techniques, preparation of an investigative report, routine inspections and arrest procedure, 5) Qualifications for License and Liquor License Manual including statutory qualification for liquor licenses, checklist of requirements for each of the sixty different types of liquor licenses and schedule of license fees, hours alcoholic beverages may be sold by license type, 6) new Department of Public Safety Policy & Procedure Manual. All of these policies and procedures are provided to enforcement personnel to ensure that field operations are handled in a professional, competent and consistent manner throughout the entire state.

17. The current state excise tax rates for spirits, wine and beer are set by state law. The legislature is the only governmental body vested with the authority to set taxes (see Art. 10, Sec. 1 & 2, Missouri Constitution). Thus, the appropriate excise tax rate is a matter to be determined by the General Assembly.

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